



Health and safety: police

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The *Police (Health and Safety) Act 1997* formally brought the police within the provisions of the *Health and Safety at Work etc Act 1974*.

The *Police (Health and Safety) Regulations 1999* apply the provisions of all existing health and safety regulations to police officers but with some aspects amended to allow the police to use items of work equipment with appropriate force against others during their operational activities.

Concerns that the police are being unduly impeded by health and safety law have led to new guidance being produced. An alternative suggestion – that the police should be released from obligations under the 1974 Act – has not been pursued.

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1 Background

"Health and safety legislation is holding police officers back. It is dangerous. It undermines public confidence. And we're going to change it." Dominic Grieve, shadow Home Secretary, made these comments during the Conservative Party Conference in September 2008. The commitment had previously been made by his predecessor David Davis. Specifically, he pledged to amend Section 2 of the *Health and Safety at Work etc Act 1974* so that it does not apply to the police in pursuit of their duties.

Library Standard Note SN04936, [Health and safety](#), provides examples of instances where the law has been seen as presenting the police with an impediment and source of bureaucracy.

It was under the HSWA that a successful prosecution was brought against the Metropolitan Police for the death of the Brazilian Jean Charles de Menezes, a prosecution which the then Mayor of London, Ken Livingstone, criticised, saying that al-Qaeda would not be "considering the implications for health and safety legislation when they are planning their terrorist activities".¹ There have been other controversial cases, like the one brought by the HSE against two former Chief Constables of the Metropolitan Police in 2003 over the death of an officer and injuries to another after they chased criminals across roofs. The case was thrown out but, according to Lord Stevens, a successful prosecution would have caused "irreparable damage to the way we police in Britain".²

More controversy arose in 2008 over a decision by Kent police not to break up raves until dawn, for what they claimed were health and safety reasons. They said that many people at the rave would be under the effects of drugs and alcohol and that it would be dangerous to force them to go home in the dark. Residents were reported to be annoyed by the decision.³

2 Health and Safety at Work etc Act 1974

Section 2 of the *Health and Safety at Work etc Act 1974* (HSWA) was last amended by the *Employment Protection Act 1975*. Section 2 of HSWA deals with the general duties of employers to their employees; it reads (as amended):

- (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.
- (2) Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular—

¹ "Most foul - De Menezes shooting", *Economist*, 22 July 2006

² "Tories promise to ease health and safety rules for police", *Guardian*, 15 May 2008

³ 'Rave police foiled by health and safety', *Daily Telegraph*, 9 May 2008

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
 - (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
 - (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
 - (d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
- (e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.
- (3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all his employees.
- (4) Regulations made by the Secretary of State may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under subsection (6) below and shall have such other functions as may be prescribed.
- (5) . . .
- (6) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.
- (7) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in [subsection (4)] above, to establish, in accordance with regulations made by the Secretary of State, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

The frequent occurrences of the qualifying phrase, “so far as is reasonably practicable”, provide scope for the contexts of police work to be taken into account.

3 Police (Health and Safety) Act 1997

The *Police (Health and Safety) Act 1997* formally brought the police within the provisions of HSWA.

The 1997 Act defines police officers, special constables and cadets as being 'employees' and 'at work' while on duty. The *Police (Health and Safety) Regulations 1999* apply the provisions of all existing health and safety regulations to police officers but with some aspects amended to allow the police to use items of work equipment with appropriate force against others during their operational activities.

Some background to this was given by Lord Blencathra in June 2011 during a committee stage debate on the *Police Reform and Social Responsibility Bill*:

Lord Blencathra: I need to correct a mistake I made in 1996-97. It was not the only one I made then, but it is the only one I may have a chance to rectify at the present moment. Putting the police under the statutory provisions of the Health and Safety at Work etc. Act was my policy and my responsibility. I was the Police Minister at the time; I was the guilty man. Admittedly, I was aided and abetted by the whole of ACPO, the Police Federation, the Police Superintendents' Association, the whole police department of the Home Office and all the police authorities. In this House, the late Lord McIntosh of Haringey said that it was his duty to oppose things but that there was nothing in the Bill that he could find to oppose.

All the great and the good, and even I, thought this Bill was the right thing to do. It was a jolly good move and put the police on the same basis as other workers, and we thought there would be no problems. In that frantic legislative climate at the end of 1996-97, heading up to the election, the Police (Health and Safety) Bill was given to a Back-Bencher in another place to introduce as there was no time in the government programme-I believe I had led on about 15 Home Office Bills in that last Session. It was bounced through on the nod in another place at 2.30 pm on a Friday, not having received any debate whatever. It then got 45 minutes in Committee, on a Friday. There was no Report or Third Reading. When it got to this House, it had 19 minutes of debate at Second Reading and, since no amendments were moved, it had no Committee stage, no Report stage and no Third Reading stage; and it passed into law. I am not being critical here, because I put through Bills with even less scrutiny. However, this Act received a total of 64 minutes' scrutiny in both Houses of Parliament.⁴

Lord Blencathra subsequently withdrew his amendment which would have significantly altered the application of health and safety enactments to the police (including the disapplication of HSWA). Instead, the Government has been adopting an approach based on modified guidance.

4 Guidance for the police

The Government's policy on health and safety guidance for the police was outlined in parliamentary questions in September 2011:

Health and Safety Regulation (Police)

8. Mark Lancaster (Milton Keynes North) (Con): What steps she is taking to reduce the burden of health and safety regulation on police officers. [70933]

The Minister for Policing and Criminal Justice (Nick Herbert): We have worked with the Association of Chief Police Officers, the Crown Prosecution Service and the Health and Safety Executive to publish new guidance, in order to support police officers to do the right thing by taking a common-sense approach to health and safety rules.

⁴ HL Deb 9 June 2011 c416

Mark Lancaster: As we have heard from my hon. Friend the Member for Banbury (Tony Baldry), some jobs are dangerous, and being a police officer is certainly one of them. As a bomb disposal officer, I have some empathy with a police officer who told me recently that by the time he has filled out the mountain of paperwork required for health and safety, all he has done is delay the point at which he gets on the street to do his dangerous job. Although I commend the Government on tackling this area, can we not do a bit more?

Nick Herbert: Working with police forces, we continue to attack bureaucracy. I pay tribute to the work of the chief constable of the West Midlands, Chris Sims, who drives these efforts by leading our reducing bureaucracy programme board. We have identified that 2.5 million police hours could be saved through improvements to form filling and other means of reducing bureaucracy. In addition to those substantial savings, we have already announced savings in relation to reducing the burden of the stop-and-account form, and scrapping the stop form, saving another 800,000 police hours a year.⁵

In October 2009 Judith Hackitt, Chair of the Health and Safety Executive (HSE), along with Peter Fahy, Chief Constable of Greater Manchester, and Sir Hugh Orde, President of the Association of Chief Police Officers (ACPO), launched the statement: *Striking the balance between operational and health and safety duties in the Police Service*. This is available in the [police area of the HSE website](#).

More recently (June 2011), an [explanatory note](#) has been published in support of the high-level statement *Striking the balance between operational and health and safety duties in the Police Service*. The note implements the recommendation of Lord Young's [Common Sense, Common Safety](#) (October 2010): "Police officers should not be at risk of investigation or prosecution under health and safety legislation when engaged in the course of their duties if they have to put themselves at risk as a result of committing a heroic act." It also provides additional guidance.

⁵ HC Deb 12 September 2011 c745