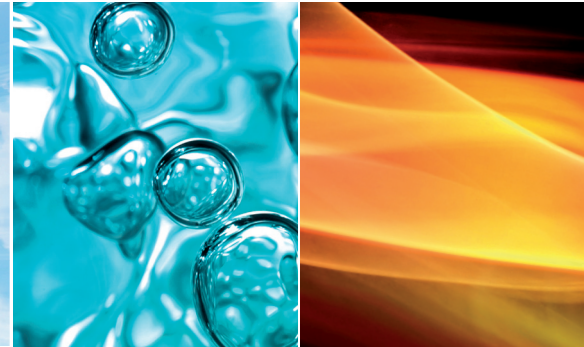




# Your Legal Duties relating to **Ventilation and Water Systems**



## INDUSTRY GUIDANCE

Various industry organisations such as BESA, BSRIA, CIBSE, etc., produce technical standards and guidance to assist in giving more specialist detail on methods of compliance in support of ACOP and HSE Guidance.



## AN EXPLANATION OF THE LAW

The basis of British health and safety law is the **Health and Safety at Work etc Act 1974.**

The Act sets out the general duties which employers have towards employees and members of the public, and employees have to themselves and to each other.



## Regulations

Regulations are law, approved by Parliament. These are usually made under the Health and Safety at Work Act, following proposals from Health & Safety Executive (HSE).

### Approved Codes of Practice

Approved Codes of Practice (ACOP) offer practical examples of good practice.

They give advice on how to comply with the law by, for example, providing a guide to what is 'reasonably practicable'. For example, if regulations use words like 'suitable and sufficient', an Approved Code of Practice can illustrate what this requires in particular circumstances. Approved Codes of Practice have a special legal status. If employers are prosecuted for a breach of health and safety law, and it is proved that they have not followed the relevant provisions of the Approved Code of Practice, a court can find them at fault unless they can show that they have complied with the law in some other way.

## Guidance

The HSE publishes guidance on a range of subjects. The main purposes of guidance are:

- (1) To interpret the law and thus to help people to understand what the law says including, for example, how requirements based on EC Directives fit with those under the Health and Safety at Work Act;
- (2) To help people to comply with the law;
- (3) To give technical advice.

*This guidance is not compulsory and employers are free to take other action. If employers do follow this guidance they will normally be doing enough to comply with the law.*



# COMPLYING WITH THE LAW

## Risk Assessment

The main requirement on employers is to carry out a risk assessment. Employers with five or more employees need to record the significant findings of the risk assessment. This requirement is detailed in:

- (1) Regulation 3 of the **Management of Health and Safety at Work Regulations 1999** and
- (2) Within Article 9 of the **Regulatory Reform (Fire Safety) Order 2005** and
- (3) Regulation 6 of the **Control of Substances Hazardous to Health Regulations 2002**.

Specific risk assessments should be carried out in relation to controlling the risk of Legionnaires' disease, the risk of fire starting in or fire spreading via a kitchen extraction system, and the risk of anything which may contaminate the air that has settled within a ventilation system.

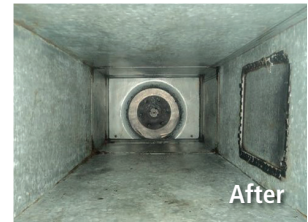


## Kitchen Extract Systems

This specific type of mechanical extract ventilation system is designed to control the environment in areas where cooking takes place. Typically the process of cooking will produce hot fumes laden with particles of fat and grease from both the cooking oils used and the food being cooked.

These fumes will pass through the kitchen extract system and flammable particles will deposit on the internal surfaces becoming thicker and a greater fire risk as time progresses. It is a well-documented and recognised risk that if left

uncontrolled these deposits can act as a means of propagating a small kitchen fire into a devastating building fire. A fire risk assessment should therefore document where kitchen extract systems are present and what should be done to control the risk as per Articles 8, 9 and 11 of **The Regulatory Reform (Fire Safety) Order 2005**. The Order requires measures to reduce the risk of fire and the spread of fire on the premises. The BESA specification TR19® Grease gives industry guidance on suitable measures to assist in the control of these fire risks by effective management, monitoring and regular review of both grease levels and associated cleaning frequencies.





## Ventilation Systems

Whilst air handling units (AHUs) will have a filtration system to minimise the ingress of particulate into the system, it will not eliminate this ingress altogether. Over time a layer of detritus will accumulate within the ventilation system and the air that those in the workspace breathe will have to pass over this layer of detritus. Regulation 6 of the **Workplace (Health, Safety and Welfare) Regulations 1992** requires every enclosed workspace to be ventilated by a sufficient quantity of fresh or purified air.

Regulation 5 of the same regulations requires mechanical ventilation systems to be subject to a suitable system of maintenance and cleaned as appropriate. The ventilation ducts that form part of a mechanical ventilation system and distribute air into an enclosed workspace will typically have an internal surface area amounting to in the region of 10% of the floor area that they serve. It is therefore common sense that ventilation systems should be cleaned periodically. In November 2011 BS EN15780 was published, a British Standard on maintaining the cleanliness of ventilation systems, based on a European Norm. This standard gives detailed guidance as does BESA TR19® on a suitable system of maintenance to assist with controlling the detritus risk.



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## Fire and Smoke damper testing and maintenance

Regular fire/smoke damper testing (known as drop testing) as well as fire/smoke damper cleaning and maintenance is both a legal requirement and a critical part of building fire safety management. Swiftclean is one of the UK's leading specialist buildings services providers offering a fire damper testing, cleaning and maintenance service, in accordance with BS 9999:2017. This guidance specifies that all fire dampers should be drop tested, cleaned and maintained at least every year.

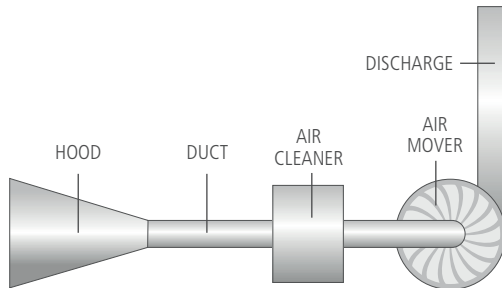
In a healthcare setting, additional care is needed, so it is important to comply with **Health Technical Memorandum (HTM) 03-01: Specialised ventilation for healthcare premises Part B: Operational management and performance verification.**



## Local Exhaust (LEV) Systems

Most LEV systems need a thorough examination and test at least once each year (legally, you are allowed 14 months between tests) to make sure it works effectively and continues to protect your employees as required by **The Control of Substances Hazardous to Health Regulations 2002 (COSHH)**. You may require more frequent examination and testing for LEV's, serving some processes, such as those controlling more critical or high-hazard areas.

The HSE provides a guidance document ref HSG258 called "*Controlling airborne contaminants at work, a guide to local exhaust ventilation (LEV)*".



## Water Systems

Legionella bacteria is known to colonise man made water systems and to be found in cooling towers, hot and cold water systems and other plant which use or store water. There are many cases documented of individuals contracting Legionnaires' disease.

This can be fatal in approximately 12% of cases. **The Control of Substances Hazardous to Health Regulations 2002**, require employers to control the risk of micro-organisms which may cause infection or otherwise create a hazard to human health. The Health & Safety Commission publish an Approved Code of Practice & Guidance document, known as "*L8 Legionnaires' disease; the control of Legionella bacteria in water systems*". This gives practical advice on controlling this risk and states to comply with their legal duties, dutyholders should:

- (1) Identify and assess sources of risk;
- (2) Prepare a scheme for preventing or controlling the risk;
- (3) Implement, manage and monitor precautions;
- (4) Keep records of the precautions; and
- (5) Appoint a person to be managerially responsible.





## Corporate Manslaughter and Corporate Homicide Act 2007

According to leading legal experts, this Act clarifies the criminal liabilities of companies, including large organisations, where serious failures in the management of health and safety result in a fatality. This makes it much easier for prosecutors to secure convictions in outbreaks of Legionnaires' disease and in the aftermath of building fires linked to poorly maintained ventilation.



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