

Overview of legislation for accommodation providers

Bookings

Key Facts

- Once you have accepted a booking from a guest, you normally have to honour the booking.
- All accommodation providers should abide by good practice with regard to booking procedures.

Cancellations and No-shows

Key Facts

- All accommodation providers are strongly recommended to have a cancellation procedure, in order to avoid any problems with cancellation, curtailment and no-shows.
- If a guest cancels a booking or checks out early, they are in breach of the booking contract they have with you.
- If you have to cancel a booking that you have already accepted, you are in breach of contract.

Discrimination

Key Facts

- Discrimination laws apply to all service providers.
- It is unlawful to discriminate directly against anyone.
- It is unlawful to discriminate indirectly against anyone.

Fire Safety (General)

Key Facts

- Fire safety legislation applies to the 'responsible person' in virtually all workplaces including hotels, guesthouses and similar premises.
- A 'suitable and sufficient' fire risk assessment must be carried out, and where there are five or more employees, the assessment should be recorded.
- There should be one person responsible for the fire risk assessment and ensuring that fire protection and prevention measures are observed and maintained.
- An emergency plan should be drawn up. It should be displayed in the form of a fire action notice in guest rooms

and adjacent to the fire alarm call points in the staff and common areas.

Guests with Disabilities

Key Facts

- If you provide any sort of accommodation, serviced or self-catering, the Disability Discrimination Act 1995 (as amended) applies to you.
- The Act gives people with disabilities rights of access to goods, facilities and services, which includes tourist accommodation.
- You are also required to make reasonable adjustments to the way you deliver your services to make it easier for disabled guests to use them.

Health and Safety at Work Act

Key Facts

- The Act places general duties and responsibilities on all people at work, including employers, employees and the self-employed.
- You are responsible for ensuring, so far as is reasonably practicable, the health, safety and welfare of all your employees at work plus anyone else who could be affected by your work activities, eg guests, casual workers, contractors.
- Your employees also have a responsibility to take reasonable care of their own health and safety.
- If you employ more than five people you must have a written health and safety policy.
- You must carry out a risk assessment to identify and manage any risks.

Health and Safety Liabilities

Key Facts

- If you are the owner of serviced or self-catering accommodation with control over your premises, the Occupiers' Liability Acts 1957 and 1984 apply to you.
- The person who controls a premises (the 'occupier') is liable for the physical safety of everyone who comes onto the premises.
- Under the Employers' Liability (Compulsory Insurance) Act 1969, employers must have insurance to cover their liability for any harm suffered by an employee at work.

- Public liability insurance is not compulsory but is strongly recommended for accommodation providers.

Pricing and Charging

Key Facts

- The Consumer Protection Act 1987 covers all statements of price and affects any accommodation business.
- If your serviced accommodation premises has four or more letting bedrooms, or eight letting beds, and all your guests do not book in advance, the Tourism (Sleeping Accommodation) Price Display) Order applies.
- Serviced accommodation operators who supply food and/or drink to non-residents need to comply with the Price Marking (Food and Drink Services) Order 2003.
- If you wish to charge a lower price to those paying by cash rather than by credit card, the Price Indications (Method of Payment) Regulations 1991 apply.
- Prices must include VAT.

Product Safety

Key Facts

- The Gas Safety (Installation and Use) Regulations 1998 apply to all domestic, residential and sleeping accommodation. You have duties as a landlord and/or as an employer under these Regulations.
- The Electrical Equipment (Safety) Regulations apply to everyone who supplies electrical equipment in the course of their business. They are particularly relevant to self-catering accommodation.
- The general product safety regulations apply if you provide self-catering accommodation.

Registration and Data Protection

Key Facts

- All serviced and self-catering accommodation premises must keep a record of all guests over the age of 16. The record should include full name and nationality.
- If you hold any personal information on guests or any other individuals, including employees (other than on odd scraps of paper), the Data Protection Act applies.
- You must keep each guest's details for at least 12 months.

Smoking in Public Places

Key Facts

- Under the Health Act 2006, smoking is banned in enclosed public spaces and places of work, with some exemptions.
- There is a legal duty for you to display no-smoking signs in a prominent position at each entrance to a smoke-free premises.
- The Act places a legal duty on any person who owns or manages a smoke-free premises to ensure that guests, visitors and staff do not smoke on the premises.

Hazards in the Workplace

Key Facts

- All employers must consider the risks to staff arising from the hazards associated with aspects of the workplace. A hazard is something with the potential to cause harm.
- The working environment must be suitable, at a reasonable temperature, have adequate lighting and ventilation, include sufficient rest facilities.
- Reduce the risk of slips, trips and falls by cleaning spillages, keeping walkways clear and organising work better.
- All electrical systems in places of work must be maintained 'so far as is reasonably practicable' to avoid danger to all who use the premises (including guests).

Hazards from Work Activities

Key Facts

- All employers must consider the risks to staff arising from the hazards associated with work activities. A hazard is something with the potential to cause harm.
- Any work equipment must be suitable for the job and safe, as required by the Provision and Use of Work Equipment Regulations 1998.
- If staff habitually use computers or other kinds of display screen equipment, the Health and Safety (Display Screen Equipment) Regulations 1992 apply.
- If staff lift and carry objects, the Manual Handling Operations Regulations 1992 apply.
- Under the Work at Height Regulations 2005, employers are required to avoid work at height where possible, or, where it cannot be avoided, to take measures to ensure that the person working at height does not fall.

- If you are an employer you must assess all hazardous substances.
- These are the main regulations to be aware of, but other health and safety legislation may apply, depending on the work activity being done.

Planning and Building

Key Facts

- Contact the planning department of your local authority for advice on planning permission.
- If your building contains asbestos you must comply with the Control of Asbestos Regulations 2006.
- Planning permission and building regulations apply if you are considering starting a business offering serviced or self-catering accommodation, or if you plan to convert, extend or make structural alterations to an existing property or construct a new building.

Houses in Multiple Occupation

Key Facts

- Your local authority may class your accommodation as a house in multiple occupation (HMO, as defined in the Housing Act 2004) in some cases.
- If you feel that your property is being classed wrongly as an HMO by the local authority, you may appeal to a residential property tribunal.
- HMOs usually need to be licensed by the council.
- Environmental health officers are responsible for enforcing HMO legislation locally.

Utility Suppliers

Key Facts

- If the water supplies for your accommodation come from a private supply, the Private Water Supplies Regulations 1991 apply to you.
- Local authorities must take and analyse samples of private water supplies from groundwater sources.
- If you make a specific charge to your customers for gas or electricity, the most you can charge is limited by the 'maximum resale price' rule.
- The maximum resale price is the same price that you have paid to your own supplier.

Signs for your Premises

Key Facts

- If you display any outdoor signs and/or advertisements, the Town and Country Planning (Control of Advertisements) Regulations 1992 apply to you.
- The need for consent from the planning authority depends on whether signs are fully, partially or non-illuminated and where they are situated.
- The highways department of your local authority can advise on white on brown tourism signs.

Accepting Guests

Key Facts

- Your rights with regard to accepting guests depend on whether you are classed as a 'hotel' or a 'private hotel'.
- A hotel can refuse guests who appear unable or unwilling to pay or who are not in a fit state to be received.
- A private hotel is free to pick and choose its guests even when rooms are available, provided that in exercising this right there is no discrimination on the grounds of, for example, gender or race.

Luggage and Belongings

Key Facts

- If you run serviced accommodation, you are required by law to undertake responsibility for the safekeeping of all reasonable items of luggage brought in by the guest.
- Hotel owners have the legal right to detain a guest's property until the guest settles his/her bill.

Business Rates

Key Facts

- Business rates apply to bed and breakfast establishments **unless** you do not intend to offer short stay accommodation to more than six people simultaneously OR you (the owner) occupy part of the property as your only or main home OR letting out the rooms is subsidiary to the use of the rest of the house as your home.

- Business rates apply to self-catering establishments **unless** you do not intend to it to be available for short-period lets for 140 days or more a year.
- It is only the part of your property used for business purposes that is subject to business rates.
- Your local authority will calculate your business rates based on the 'rateable value' of your property.

Direct Marketing

Key Facts

- If you make direct marketing calls to individuals, or send direct marketing faxes to individuals or businesses you are required to comply with direct marketing legislation.
- As a business, you are not allowed to make direct marketing calls to individuals who have declined to receive such calls or who have registered with the Telephone Preference Service (TPS).
- If you send e-mail and text/picture/video marketing messages to advertise your business, the Privacy and Electronic Communications (EC Directive) Regulations 2003 apply.

Holiday Packages

Key Facts

- If you are offering a package of services for sale at an inclusive price that lasts for at least 24 hours it is probably subject to the Package Travel, Package Holidays and Package Tours Regulations 1992 (amended in 1995).
- The regulations concern the marketing, sale and performance of package holidays.

False Statements

Key Facts

- The Trade Descriptions Act 1968 applies if you advertise your accommodation facilities in any form of advertising material or make statements about your facilities to the public.
- The Act makes it a criminal offence for you to knowingly or recklessly make 'false statements' about any facilities or services offered.
- Making false statements can also lead to civil claims. This is called misrepresentation.

Registration and Data Protection

Key Facts

- All serviced and self-catering accommodation premises must keep a record of all guests over the age of 16. The record should include full name and nationality.
- If you hold any personal information on guests or any other individuals, including employees (other than on odd scraps of paper), the Data Protection Act applies.
- You must keep each guest's details for at least 12 months.

Discrimination

Key Facts

- Discrimination laws apply to all service providers.
- It is unlawful to discriminate directly against anyone.
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Safety Management

Key Facts

- The Management of Health and Safety at Work Regulations 1999 places general duties and responsibilities on all employers at work.
- Employers must carry out a 'suitable and sufficient' assessment of the health and safety risks to employees and others arising out of your work activities.
- If you have five or more employees, you must record any significant findings of the assessment and your health and safety arrangements.
- Employers, the self-employed and those in control of work premises must report appropriate work-related accidents, diseases and dangerous occurrences.
- Employers must provide first aid equipment and facilities appropriate to the circumstances in the workplace.

National Minimum Wage

Key Facts

- The national minimum wage is relevant to all accommodation providers that have people working for them.
- There are three rates of national minimum wage (as at 1 October 2007):

- main (adult) rate (for workers aged 22 and over) is £5.52 per hour
- development rate for 18-21 year old workers is £4.60 per hour (this may also apply to workers aged 22 and over during the first six months in new employment and who are receiving accredited training)
- development rate for 16-17 year old workers is £3.40 per hour.

Time Off for Parents

Key Facts

- All employers are required to comply with legislation related to family-friendly working.
- Employees' rights in this area include maternity and paternity rights, adoption leave, flexible working and parental leave.

Working Hours

Key Facts

- The Working Time Regulations 1998 (as amended in 1999, 2001 and 2003) apply to all accommodation providers that have people working for them.
- You must take reasonable steps to ensure that workers do not work more than an average of 48 hours a week (excluding lunch breaks).
- Workers are entitled to 4.8 weeks' paid leave a year and rest periods of a specified length in each working day and in each seven day period.
- You need to keep sufficient records to show that you are complying with the regulations.

Food Labelling and Pricing

Key Facts

- If you provide food for guests that contains GM ingredients you will need to comply with genetically modified food legislation.

Food Safety and Hygiene

Key Facts

- If you supply food to guests you must comply with the provisions of the food safety hygiene legislation. The word 'food' is defined as including drink.

- The **Food Safety Act 1990** and the labelling regulations made under it aim to ensure that food produced for sale is safe to eat.
- **EC Regulation No. 852/2004** is concerned with the hygiene of foodstuffs.
- The **Food Hygiene (England) (No. 2) Regulations 2005** is concerned with temperature control.
- Virtually all accommodation businesses that serve food or drink of any kind are required by the Act to register with their local authority.
- You must not keep foods at a temperature that might make them unsafe to eat. The law applies to ready-to-eat high-risk foods, eg sandwiches, cream, cooked dishes of meat, poultry, eggs, fish, shellfish, or rice.
- Foods which need temperature control for safety must be held either:
 - **hot** (at or above a minimum temperature of 63°C) or
 - **chilled** (at or below a maximum temperature of 8°C).

Liquor Licensing

Key Facts

- If you wish to sell alcoholic drinks you will need a licence, as required by the **Licensing Act 2003**. It is an offence to sell intoxicating liquor without one.
- There are two types of licence: premises licences and personal licences.

Licences

Key Facts

- If you offer short-stay accommodation (of any kind) to overnight visitors and have installed television sets in the accommodation, you need a 'Hotel and Mobile Units Television Licence' (hotel licence).
- If you play any copyright music in public or on your premises or if it is performed live, you need a Performing Right Society licence.

Swimming, Gym and Outdoor Safety

Key Facts

- There are no specific regulations on swimming pool or gym safety, but you must manage these activities so they comply with health and safety legislation.

- Anyone who sells adventure activities intended for young people under 18 must be inspected and licensed under the **Adventure Activities Licensing Regulations 2004**.

Childcare

Key Facts

- If you regularly provide day care for children under the age of eight for more than two hours in any day, then registration with Ofsted may be necessary.
- The registration process involves filling in an application form and providing details about other people associated with the care.
- Ofsted will need to be satisfied that you are a suitable person, and will expect certain qualifications or recommend some training.