

# SUPPLEMENT



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## NEBOSH CERTIFICATE – UNIT NGC1

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## INTRODUCTION

This Supplement has been prepared to provide you with updating material relating to your National General Certificate Unit NGC1 course. You should read it in conjunction with your existing study materials.

# ELEMENT 1: FOUNDATIONS IN HEALTH AND SAFETY

In the main section headed **THE MORAL, LEGAL AND FINANCIAL REASONS FOR HEALTH AND SAFETY**, insert the following material on The **Compensation Act 2006** at the end of the section on **Civil Liability**, and immediately before the heading **The Business Case for Health and Safety**.

## The Compensation Act 2006

The **Compensation Act 2006** received Royal Assent on 25<sup>th</sup> July 2006. Part I of the Act contains three sections, all of which have an impact on health and safety issues.

**Section 1** is concerned with the deterrent effect of potential liability provisions. A court considering a claim in negligence or breach of statutory duty may now, in determining whether a defendant should have taken particular steps to meet a standard of care, whether by taking precautions against a risk or otherwise, have regard to whether a requirement to take those steps might in future prevent a desirable activity from being undertaken at all, to a particular extent or in a particular way; or discourage persons from undertaking functions in connection with a desirable activity.

The purpose of this clause is to improve awareness of this aspect of the law and help to ensure that normal activities are not prevented because of the fear of litigation and excessively risk-averse behaviour.

**Section 2** deals with apologies, offers of treatment or other redress. Under the Act an apology, an offer of treatment or other redress does not of itself amount to an admission of negligence or breach of statutory duty. This represents a major change in the way that one aspect of liability for negligence may be interpreted by a court.

**Section 3** covers the matter of damages for mesothelioma. The Act creates a quicker and simpler route for employees who contract mesothelioma due to negligent workplace exposure to asbestos to recover compensation from employers. It covers situations where:

- a person (defined as "the responsible person") has negligently or in breach of statutory duty caused or permitted another person ("the victim") to be exposed to asbestos;
- the victim has contracted mesothelioma as a result of exposure to asbestos;
- because of the nature of the disease and the state of medical science, it is not possible to determine with certainty whether it was the exposure at one workplace or another exposure which caused the victim to become ill; and
- the responsible person is liable in connection with damage caused to the victim by the disease, whether by reason of having materially increased a risk or for any other reason.

In such cases the responsible person shall be liable in respect of the whole of the damage caused to the victim by the disease, irrespective of whether the victim was also exposed to asbestos while working for another employer.

Part 2 of the **Compensation Act** creates a new statutory framework for the regulation of claims management services.

Part 3 of the Act covers general matters and states that the Act applies only in England and Wales, except for some provisions under Section 3 which also cover Scotland and Northern Ireland.