

Health and safety regulation

.... a short guide

people

COMMUNICATION



Why this guide?

The Health and Safety Commission (HSC) conducted a *review of health and safety regulation in 1994*. It found that people were confused about the differences between:

- guidance;
- Approved Codes of Practice (ACOPs); and
- regulations

and how they relate to each other.

This leaflet aims to explain how each fits in. It is for employers and self-employed people, but will be of interest to anyone who wants to know how health and safety law is meant to work.

What health and safety law requires

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.

These duties are qualified in the Act by the principle of '*so far as is reasonably practicable*'. In other words, an employer does not have to take measures to avoid or reduce the risk if they are technically impossible or if the time, trouble or cost of the measures would be grossly disproportionate to the risk.

What the law requires here is what good management and common sense would lead employers to do anyway: that is, to look at what the risks are and take sensible measures to tackle them.

The Management of Health and Safety at Work Regulations 1999 (the Management Regulations) generally make more explicit what employers are required to do to manage health and safety under the Health and Safety at Work Act. Like the Act, they apply to every work activity.

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.

Risk assessment should be straightforward in a simple workplace such as a typical office. It should only be complicated if it deals with serious hazards such as those on a nuclear power station, a chemical plant, laboratory or an oil rig.

The HSE leaflet *Five steps to risk assessment* will give you more information.

Besides carrying out a risk assessment, employers also need to:

- make arrangements for implementing the health and safety measures identified as necessary by the risk assessment;
- appoint competent people (often themselves or company colleagues) to help them to implement the arrangements;
- set up emergency procedures;
- provide clear information and training to employees;
- work together with other employers sharing the same workplace.

Other regulations require action in response to particular hazards, or in industries where hazards are particularly high. A list of the main regulations which apply generally is in Appendix 1. Many are not qualified by 'reasonable practicability'.

European law

In recent years much of Britain's health and safety law has originated in Europe. Proposals from the European Commission may be agreed by Member States, who are then responsible for making them part of their domestic law.

Modern health and safety law in this country, including much of that from Europe, is based on the principle of risk assessment described above.

Action on health and safety: Options

The Health and Safety Commission and its operating arm, the Executive (HSC/E), have spent over twenty years modernising the structure of health and safety law. Their aims are to protect the health, safety and welfare of employees, and to safeguard others, principally the public, who may be exposed to risks from work activity.

HSC/E consult fully with people affected by their legislative proposals, and adopt various approaches based on assessing and controlling risk (see 'What health and safety law requires').

Among the things that can prompt action from HSC/E are:

- changes in technologies, industries or risks;
- evidence of accidents and ill health, plus public concern;
- European Directives.

Where HSC/E consider action is necessary to supplement existing arrangements, their three main options are:

- guidance;
- Approved Codes of Practice; and
- regulations.

HSC/E try to take whichever option, or options, allows employers most flexibility and costs them least, while providing proper safeguards for employees and the public.

Guidance

HSE publishes guidance on a range of subjects (please see the end of this guide).

Guidance can be specific to the health and safety problems of an industry or of a particular process used in a number of industries.

The main purposes of guidance are:

- to interpret - helping 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;
- to help people comply with the law;
- to give technical advice.

Following guidance is not compulsory and employers are free to take other action. But if they do follow guidance they will normally be doing enough to comply with the law. (Please also see the sections below on Approved Codes of Practice and regulations, which explain other ways in which employers are helped to know whether they are doing what the law requires.)

HSC/E aim to keep guidance up-to-date, because as technologies change, risks and the measures needed to address them change too.

Approved Codes of Practice

Approved Codes of Practice 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.

HSC consulted in 1995 on the role of Approved Codes of Practice in the health and safety system and concluded that they could still be used in support of legal duties in specific circumstances.

Regulations

Regulations are law, approved by Parliament. These are usually made under the Health and Safety at Work Act, following proposals from HSC. This applies to regulations based on EC Directives as well as 'home-grown' ones.

The Health and Safety at Work Act, and general duties in the Management Regulations, are goal-setting (see 'What form do they take?') and leave employers freedom to decide how to control risks which they identify. Guidance and Approved Codes of Practice give advice. But some risks are so great, or the proper control measures so costly, that it would not be appropriate to leave employers discretion in deciding what to do about them. Regulations identify these risks and set out specific action that must be taken. Often these requirements are absolute - to do something without qualification by whether it is reasonably practicable.

How regulations apply

Some regulations apply across all companies, such as the Manual Handling Regulations which apply wherever things are moved by hand or bodily force, and the Display Screen Equipment Regulations which apply wherever VDUs are used. Other regulations apply to hazards unique to specific industries, such as mining or nuclear.

What form do they take?

HSC will where appropriate propose regulations in *goal-setting* form: that is, setting out *what* must be achieved, but not *how* it must be done.

Sometimes it is necessary to be *prescriptive*, that is spelling out in detail what should be done. Some standards are absolute. For example, all mines should have two exits; contacts with live electrical conductors should be avoided. Sometimes European law requires prescription.

Some activities or substances are so inherently hazardous that they require *licensing*, for example explosives and asbestos removal. Certain big and complex installations or operations require ‘safety cases’, which are large-scale risk assessments subject to scrutiny by the regulator. For example, railway companies are required to produce safety cases for their operations.

The relationship between the regulator and industry

As mentioned above, HSC consults widely with those affected by its proposals.

HSC/E work through:

- HSC's Industry and Subject Advisory Committees, which have members drawn from the areas of work they cover, and focus on health and safety issues in particular industries (such as the textile industry, construction and education or areas such as toxic substances and genetic modification);
- intermediaries, such as small firms organisations;
- providing information and advice to employers and others with responsibilities under the Health and Safety at Work Act;
- guidance to enforcers, both HSE inspectors and those of local authorities;
- the day-to-day contact which inspectors have with people at work.

HSC directly canvasses the views of small businesses. It also seeks views in detail from representatives of small businesses about the impact on them of proposed legislation.

What next?


The Review of Regulation concluded that the present system of health and safety regulation generally works well, though it identified several areas where improvements can be made.

Although the Review has ended, our work in support of Better Regulation continues. The Review programme has formed an important basis for long-lasting successes in improving workplace health and safety. Policies and initiatives flowing from it continue to support our priority aims and objectives, and will be refined in the coming years, adapting and evolving to take account of changes in technology, workplace trends and the needs of those involved.

Appendix 1: Some important pieces of health and safety legislation

Besides the Health and Safety at Work Act itself, the following apply across the full range of workplaces:

- 1 *Management of Health and Safety at Work Regulations 1999:* require employers to carry out risk assessments, make arrangements to implement necessary measures, appoint competent people and arrange for appropriate information and training.
- 2 *Workplace (Health, Safety and Welfare) Regulations 1992:* cover a wide range of basic health, safety and welfare issues such as ventilation, heating, lighting, workstations, seating and welfare facilities.
- 3 *Health and Safety (Display Screen Equipment) Regulations 1992:* set out requirements for work with Visual Display Units (VDUs).
- 4 *Personal Protective Equipment at Work Regulations 1992:* require employers to provide appropriate protective clothing and equipment for their employees.
- 5 *Provision and Use of Work Equipment Regulations 1998:* require that equipment provided for use at work, including machinery, is safe.
- 6 *Manual Handling Operations Regulations 1992:* cover the moving of objects by hand or bodily force.
- 7 *Health and Safety (First Aid) Regulations 1981:* cover requirements for first aid.
- 8 *The Health and Safety Information for Employees Regulations 1989:* require employers to display a poster telling employees what they need to know about health and safety.
- 9 *Employers' Liability (Compulsory Insurance) Act 1969:* require employers to take out insurance against accidents and ill health to their employees.

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- 10 *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)*: require employers to notify certain occupational injuries, diseases and dangerous events.
 - 11 *Noise at Work Regulations 1989*: require employers to take action to protect employees from hearing damage.
 - 12 *Electricity at Work Regulations 1989*: require people in control of electrical systems to ensure they are safe to use and maintained in a safe condition.
 - 13 *Control of Substances Hazardous to Health Regulations 2002 (COSHH)*: require employers to assess the risks from hazardous substances and take appropriate precautions.

In addition, specific regulations cover particular areas, for example asbestos and lead, and:

- 14 *Chemicals (Hazard Information and Packaging for Supply) Regulations 2002*: require suppliers to classify, label and package dangerous chemicals and provide safety data sheets for them.
- 15 *Construction (Design and Management) Regulations 1994*: cover safe systems of work on construction sites.
- 16 *Gas Safety (Installation and Use) Regulations 1994*: cover safe installation, maintenance and use of gas systems and appliances in domestic and commercial premises.
- 17 *Control of Major Accident Hazards Regulations 1999*: require those who manufacture, store or transport dangerous chemicals or explosives in certain quantities to notify the relevant authority.
- 18 *Dangerous Substances and Explosive Atmospheres Regulations 2002*: require employers and the self-employed to carry out a risk assessment of work activities involving dangerous substances.

Appendix 2: Further reading

Basic advice on first aid at work Leaflet INDG347 HSE Books 2002 (single copy free or priced packs of 20 ISBN 0 7176 2261 4)

Control of substances hazardous to health. The Control of Substances Hazardous to Health Regulations 2002. Approved Code of Practice and guidance L5 (Fourth edition) HSE Books 2002 ISBN 0 7176 2534 6

Essentials of health and safety at work (Third edition) Guidance HSE Books 1994 ISBN 0 7176 0716 X

Five steps to risk assessment Leaflet INDG163(rev1) HSE Books 1998 (single copy free or priced packs of 10 ISBN 0 7176 1565 0)

A guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 L73 (Second edition) HSE Books 1999 ISBN 0 7176 2431 5

Health and safety law: What you should know (rev1) Leaflet HSE Books 1999 (available in priced packs of 25 ISBN 0 7176 1702 5)

Health and safety law: What you should know (Second edition) Poster HSE Books 1999 ISBN 0 7176 2493 5

The law on VDUs: An easy guide: Making sure your office complies with the Health and Safety (Display Screen Equipment) Regulations 1992 (as amended in 2002) HSG90 HSE Books 2003 ISBN 0 7176 2602 4

Management of health and safety at work. Management of Health and Safety at Work Regulations 1999. Approved Code of Practice and guidance L21 (Second edition) HSE Books 2000 ISBN 0 7176 2488 9

Manual handling: Solutions you can handle HSG115 HSE Books 1994 ISBN 0 7176 0693 7

Memorandum of guidance on the Electricity at Work Regulations 1989. Guidance on Regulations HSR25 HSE Books 1989
ISBN 0 7176 1602 9

Safe use of work equipment. Provision and Use of Work Equipment Regulations 1998. Approved Code of Practice and guidance L22
(Second edition) HSE Books 1998 ISBN 0 7176 1626 6

Safety in the installation and use of gas systems and appliances. Gas Safety (Installation and Use) Regulations 1998. Approved Code of Practice and guidance L56 (Second edition) HSE Books 1998
ISBN 0 7176 1635 5

A short guide to the Personal Protective Equipment at Work Regulations 1992 Leaflet INDG174 HSE Books 1995 (single copy free or priced packs of 10 ISBN 0 7176 0889 1)

Working with VDUs Leaflet INDG36(rev1) HSE Books 1998
(single copy free or priced packs of 10 ISBN 0 7176 1504 9)

Workplace health, safety and welfare: A short guide for managers
Leaflet INDG244 HSE Books 1997 (single copy free or priced packs of 10 ISBN 0 7176 1328 3)

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