No. 480/2016

16 September 2016

Our Ref: C1/16

**Health and Safety at Work: The Law at a Glance - Safety Reps & Branch Guide:**

**To: All Branches**

Dear Colleagues,

**Overview**

All people have a legal right to be protected from work related risks.

In general the law imposes a range of duties on employers, the self-employed and employees as well as others such as designers, manufacturers or suppliers of articles and substances for use at work.

These are expressed as broad general duties in the Health and Safety at Work (HSW) Act but are spelt out in more detail in subsidiary regulations such as those dealing with the management of health and safety and specific health and safety issues.

While most modern health and safety law applies 'across-the-board', there are also additional regulations covering industry sectors such as construction, agriculture, railways, mines and quarries and major hazard and nuclear installations. Besides laying down duties, the law also gives the Health and Safety Executive (HSE) and Local Authority inspectors (EHOs) wide ranging powers - to prosecute and to issue notices halting dangerous work or requiring improvements. Guidance on complying with the law is contained in Approved Codes of Practice (ACoPs) and HSE guidance notes. Guidance in British and International standards as well as industry guidance may also be relevant.

Two of the most important pieces of health and safety legislation in the UK are the Health and Safety at Work, etc., Act 1974 and the Management of Health and Safety at Work Regulations 1999. These set the standards that must be met to ensure the health and safety of all employees and others who may be affected by any work activity. Other regulations also exist to cover work activities that carry specific risks, for example lifting and carrying, computer work and electricity. A summary of the key pieces of legislation is provided in this short summary guide. Although these are the main pieces of legislation affecting health and safety, other specific legislation may also be applicable. When in doubt, further advice should be sought.

**Some of the key requirements of health and safety law can be summarised briefly as follows:**

**1. General Duty of Care**  
All employers have a duty to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees. They also have a duty to protect non-employees from risks arising out of their work activities. The primary UK legislation covering occupational health and safety is the [Health and Safety at Work Act](http://www.hse.gov.uk/legislation/hswa.htm). It imposes general duties for health and safety on employers, employees and others such as landlords, manufacturers, suppliers and designers.

[Employers](http://www.hse.gov.uk/leadership/legislation.htm) (including individual directors) have the main responsibilities. They must:

* ensure the health, safety and welfare of all their employees
* produce a written policy statement explaining how they intend to do this
* consult with Unions and Union Safety Reps
* protect others such as the public, their contractors and visitors.

[Employees](http://www.hse.gov.uk/pubns/law.pdf) have duties to:

* take care not to put themselves and others at risk
* co-operate with the employer's arrangements for ensuring health and safety.

**NOTE: Managers** have additional health and safety responsibilities and the employer has to provide the necessary health and safety management training, expert support and resources to fulfil those responsibilities. *[Health and Safety at Work Act 1974 (HSWA), Management of Health and Safety at Work Regulations (MHSW).]*

**2. Common Law Duties**

Common law is law developed through legal cases, rather than by Acts of Parliament.

The common law duty on an employer is to take reasonable care of the health and safety of their employees and to guard against reasonably foreseeable risks to health and safety. This ‘duty of care’ can be important where there is no particular statutory law covering something, e.g. repetitive strain injury or stress.

There are two forms of liability – actual liability and vicarious liability where the employer is held liable for the negligent acts or omissions of its employees.

Employers’ common law duties are wide-ranging and include:

* ensuring there is a safe place of work
* providing safe tools and equipment
* ensuring workers are reasonably competent
* guarding against reasonably foreseeable risks of injury
* ensuring safe working systems

**3. Health and Safety Management System**  
Employers must take and give effect to adequate arrangements for the effective planning, organisation, control, monitoring and review of protective and preventive measures. They must record these arrangements (where five or more are employed) - for example, as part of their health and safety policy statement (see below). *[MHSW]*

**4. Safety Policy Statement**  
A written policy statement must be prepared by employers (if five or more persons are employed) covering the employer's organisation and arrangements in force for ensuring health and safety. It must be brought to the attention of all employees. *[HSWA]*

**5. Competent Persons**  
An adequate number of 'competent' persons have to be appointed by employers, with sufficient time and resources at their disposal, to assist the employer to comply with his legal duties and to implement emergency arrangements (see below). Competent health and safety advisers can be either employees with appropriate qualifications and experience or professionally qualified consultants. *[MHSW]*

**6. Risk Assessment**  
Suitable and sufficient' risk assessments must be carried out by the employer. The purpose is to identify hazards, assess the probability that harm may arise from them and evaluate the effectiveness of control measures. *[MHSW]* (This duty is elaborated in regulations dealing with specific hazards and issues e.g. substances hazardous to health (COSHH), and Health and Safety (Display Screen Equipment) Regulations (DSE).

**7. Tackling Risks at Source**  
There is a duty of care upon employers to ensure that workplaces must be made safe without risks to health. So far as is reasonably practicable, accidents and work related health damage should be prevented by tackling risks at source, using engineering means in preference to systems of work, personal protective equipment only being an acceptable alternative where risks cannot be controlled by such other means. *[MHSW, ACoP].*

**8. Information, Instruction, Training and Supervision**  
Employees must be given comprehensible information, instruction, training and supervision necessary to ensure their health and safety and that of others. *[HSWA, MHSW and other regulations e.g. COSHH].*

**9. Health and Safety Law Poster**

Employers have a legal duty under the Health and Safety Information for Employees Regulations (HSIER) to display the approved poster in a prominent position in each workplace or to provide each worker with an equivalent copy of the approved leaflet/pocket card that outlines British health and safety law. *[HSIER]*

**10. Cooperation and Co-ordination**  
Employers sharing workplaces or employing sub-contractors to undertake work must co-operate and co-ordinate their activities to ensure that they can meet their health and safety responsibilities. *[MHSW]*

**11. Hazardous Agents**  
Exposure to hazardous agents such as dust, fumes, noise, vibration, radiation or harmful micro-organisms must be eliminated or adequately controlled by employers. [HSWA, COSHH, Noise at Work Regulations (NAWR), Ionising Radiations Regulations (IR), Control of Asbestos at Work Regulations (CAW), Control of Lead at Work Regulations (CLAW). Sites with more than 25 tonnes of hazardous substances must be notified to HSE. *[The Dangerous Substances (Notification and Marking of Sites) Regulations.]*

**12. Health Surveillance**  
Arrangements should be made by employers for any necessary health surveillance of employees and appropriate records should be kept as required. *[MHSW, COSHH, CAW, CLAW, WTR and IR]*

**13. Work Equipment**  
Employers have an obligation that all work equipment must meet essential safety requirements and safe systems of work must be established. Risks from work with Display Screen Equipment must be assessed and controlled. *[Provision and Use of Work Equipment Regulations (PUWER), DSE].* There are still residual requirements in specific machinery type regulations e.g. woodworking machinery regulations, power press regulations etc.

**14. Personal Protective Equipment**  
Where risks cannot be controlled at source (see point 6 above), appropriate personal protective clothing and/or equipment should be provided free of charge by employers, it must have storage facilities and be maintained. *[HSWA and Personal Protective Equipment at Work (PPE) Regulations]*

**15. Articles and Substances**  
Manufacturers and Suppliers must ensure that articles and substances should be safe and without risks to health when properly used. They must be: properly designed; tested; packaged; labelled; accompanied by adequate information; and moved, stored and used safely. *[HSWA, Chemicals (Hazard Information and Packaging) Regulations]*

**16. Special Precautions**  
Employers must ensure that special precautions are taken when working in confined spaces and working at height. Harmful manual handling should be eliminated. Lifting plant and pressure systems should be regularly eliminated. Safe use of electricity and site transport should be ensured. *[HSWA, Manual Handling Operations Regulations, PUWER, Pressure Systems Safety Regulations, Electricity at Work Regulations]*

**17. Emergency Arrangements**  
Adequate emergency arrangements must be put in place by employers, under the control of 'competent persons'. There must also be suitable procedures for employees to report serious and imminent danger as well as shortcomings in health and safety arrangements. *[MHSW]*

**18. Fire**  
Adequate precautions should be taken against fires and explosions and adequate means of escape and firefighting equipment should be provided. Employers must carry out and review Fire Risk Assessments. Carry out and maintain Fire Precautions. Check that Fire can be detected and employees warned. Check that employees can get out quickly. Check and maintain firefighting equipment and that it is sufficient and available. Plan for an Emergency. Provide employees with Information, Instruction and Training on Fire Safety precautions. *[The Regulatory Reform (Fire Safety) Order 2005 (The Fire Safety (Scotland) Regulations 2006 made under the Fire (Scotland) Act 2005)]*

**19. Workplace Requirements**  
Essential workplace requirements should be ensured by employers, including those concerning a reasonable temperature, good cleanliness, adequate working space, adequate ventilation, adequate lighting plus safe access and egress (including traffic routes). Adequate welfare and first aid facilities should be provided. Existence of commercial or industrial premises must be notified to the appropriate health and safety enforcing authority. [Workplace Health Safety and Welfare (WHSW) Regulations and Health and Safety (First-Aid) Regulations].

**20. Reporting and Recording Accidents, Diseases and Dangerous Occurrences**  
Accidental injuries, dangerous occurrences and notifiable occupational diseases should be reported to the appropriate enforcing authority and records kept. Records also have to be kept of the results of workplace environmental monitoring, health surveillance and maintenance etc. RIDDOR's reporting requirements now are that injuries and diseases causing over seven days' incapacitation (not counting the day on which the accident happened must be reported to HSE). *[Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, RIDDOR, COSHH]*

**21. Safety Representatives, Safety Committees and Consultation**  
Employers must consult their Trade Union Safety Reps on health and safety matters. The Trade Union has the right to appoint Safety Representatives who must be consulted on all matters affecting the health and safety of employees they represent and be permitted to carry out their functions including Inspections and Investigations, speaking to and representing employees on health and safety issues, making representations to employers/managers and liaising with the HSE/LAs etc. The employer must establish a joint health and safety committees which TU Safety Reps can attend. Safety Representatives are entitled to paid time off to perform their role and to attend Union approved training courses. *[Safety Representatives and Safety Committees Regulations]*

**22. Insurance**  
All employers must have specific insurance to provide compensation to employees following successful civil law claims for damages in the event of work related injury or damage to health. [Employer's liability (compulsory insurance) act 1969]

**23. Self Employed**

Self-employed persons have broadly similar duties to those of employers where others can be affected. They must co-operate effectively with employers they are working with or for and other self-employed persons to meet the objectives of health and safety law. [MHSW]

**24. Employees Duties and Rights**

Employees must:

Take reasonable care of their own health and safety and that of others who may be affected by what they do or do not do; co-operate with their employer and others (e.g. contractors on site) in meeting health and safety requirements; report any shortcomings in health and safety arrangements (consistent with their knowledge and training); and not interfere with or misuse anything provided to assure health, safety or welfare at work.

Employees have a right to:

Work in places where all the risks to health and safety are properly controlled. Stop working and leave the area if you reasonably believe you are in serious and imminent danger. Inform the employer about health and safety issues or concerns. Receive clear information, instruction, training and supervision in how to carry out your job safely and without risks to health. *[HSWA, MHSW, PPE]*

**25. Manufacturers and Suppliers**

Manufacturers, designers, importers, suppliers, erectors or installers of any plant, machinery, equipment or appliances for use at work and manufacturers, importers and suppliers of substances for use in work activities have extensive duties: to ensure safety and absence of risks to health; to carry out research and testing; and to provide adequate information. [HSW]. Manufacturers of machinery have to ensure that it meets EC 'essential safety requirements' and bears the CE mark. *[Supply of Machinery (Safety) Regulations] [Note: In addition to the above statutory duties, all the above parties have significant common law duties, meaning that injury as a result of a failure to meet an expected standard could result in a successful action for damages in a civil court].*

**26. Enforcement**

Health and Safety Executive (HSE) inspectors and Local Authority enforcement (EHO) officers have wide-ranging powers to: enter premises; take samples and measurements; inspect documents; require persons to answer questions; and issue legally enforceable notices (prohibition notices, deferred prohibition notices and improvement notices). They also have powers to prosecute. Those found guilty of health and safety offences can face an unlimited fine and/or a period of imprisonment. *[HSWA]*

**27. Employment protection**

Employment law protects all employees from suffering any harm (detriment) because of any reasonable actions they take on health and safety grounds. This applies regardless of length of service. Employees, including Union H&S Reps, should not suffer harm for instance by being victimised, disciplined, denied a promotion, stopped pay etc., or being dismissed because they:

* Carry out or propose to carry out activities expected of them in connection with preventing or reducing risks to health and safety; perform or propose to perform functions they have as union-appointed safety reps or H&S committee members; took part, or proposed to take part in consultation with the employer under H&S regulations, or for taking part in an election under that law bring to their employer's attention by reasonable means a concern about circumstances at work which they reasonably believe are harmful, or potentially harmful to health and safety reasonably believe a situation to be of serious and imminent danger and because they could not reasonably be expected to avert it, they leave or propose to leave the workplace or any dangerous part of it, or if they refuse to return while the danger continues reasonably believe a situation to be of serious and imminent danger, and take or propose to take appropriate steps to protect themselves and others. This is to be judged by reference to all the circumstances including knowledge, facilities and (the disclosure must be made in good faith and to the employer or in some circumstances to another appropriate person).

Claims for unlawful detriment or unfair dismissal in these circumstances can be brought to an Employment Tribunal. There are strict time limits for presenting claims. [*Employment Rights Act 1996 (as amended)]*

**28.The Equality Act 2010**

The Equality Act became law in October, 2010. It replaced previous legislation (such as the Race Relations Act 1976 and the Disability Discrimination Act 1995) and ensures consistency in what employers and employees need to do to make their workplaces a fair environment and comply with the law.

Key points:

An employer must consider making 'reasonable adjustments' for a disabled employee or job applicant if:

* it becomes aware of their disability and/or
* they ask for adjustments to be made and/or
* a disabled employee is having difficulty with any part of their job and/or
* either an employee's sickness record, or delay in returning to work, is linked to their disability.

The HSE state that there is no health and safety legislation that would prevent a disabled person finding or staying in employment. Health and safety should not be used as an excuse for doing nothing, or for refusing to make reasonable adjustments. There is no requirement to carry out a separate risk assessment for a disabled employee. Employers should already be managing any significant workplace risks, including putting control measures in place to eliminate or reduce the risks. If an employer becomes aware of an employee who has a disability, they should review the risk assessment to make sure it covers risks that might be present for that employee.

A reasonable adjustment is an adjustment which aims to make sure that, as far as is reasonable, a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

Many of the adjustments an employer can make will not be particularly expensive and could be as simple as providing a special computer mouse, or chair, or sitting someone in a specific location. An employer is not required to do more than what is reasonable for them to do. What is reasonable for them to do depends, among other factors, on the size and nature of their organisation. [Equality Act 2010]

**29. Legislation: (Key Summary List)**

* [Health and Safety at Work Act (HSWA) 1974](http://www.legislation.gov.uk/ukpga/1974/37/contents)
* [Safety Representatives and Safety Committees Regulations](http://www.legislation.gov.uk/uksi/1977/500/contents/made) 1977
* [Management of Health and Safety at Work Regulations (MHSW)](http://www.legislation.gov.uk/uksi/1999/3242/contents/made) 1999
* [Health and Safety (Display Screen Equipment) Regulations](http://www.legislation.gov.uk/uksi/1992/2792/contents/made) (DSE) 1992
* [Provision and Use of Work Equipment](http://www.legislation.gov.uk/uksi/1998/2306/contents/made) (PUWER) 1998
* [Manual Handling Operations Regulations](http://www.legislation.gov.uk/uksi/1992/2793/contents/made) 1992
* [Personal Protective Equipment at Work Regulations](http://www.legislation.gov.uk/uksi/1992/2966/contents/made) (PPE) 1992
* [Workplace Health Safety and Welfare (WHSW) Regulations](http://www.legislation.gov.uk/uksi/1992/3004/contents/made) 1992
* [Control of Substances Hazardous to Health Regulations (COSHH)](http://www.legislation.gov.uk/uksi/2002/2677/contents/made) 2002
* [Health and Safety (First-Aid) Regulations](http://www.legislation.gov.uk/uksi/1981/917/contents/made) 1981
* [Reporting of Injuries, Diseases and Dangerous Occurrences Regulations](http://www.legislation.gov.uk/uksi/1995/3163/contents/made) (RIDDOR) 2013
* [Control of Noise at Work Regulations (NAWR)2005](https://en.wikipedia.org/wiki/The_Control_of_Noise_at_Work_regulations_2005)
* [Electricity at Work Regulations](http://www.legislation.gov.uk/uksi/1989/635/contents/made) 1989
* Work at Height Regulations 2005
* [Control of Asbestos Regulations](http://www.legislation.gov.uk/uksi/2006/2739/contents/made) 2012
* Confined Spaces Regulations 1997
* Construction (Design and Management) Regulations 2015
* [Chemicals (Hazard Information and Packaging) Regulations](http://www.legislation.gov.uk/uksi/1993/1746/contents/made) (CHIP) 2002
* [Lifting Operations and Lifting Equipment Regulations (LOLAR) 1998](https://en.wikipedia.org/wiki/Lifting_Operations_and_Lifting_Equipment_Regulations_1998)
* [Ionising Radiations Regulations](http://www.legislation.gov.uk/uksi/1999/3232/contents/made) 1999
* [Control of Lead at Work Regulations](http://www.legislation.gov.uk/uksi/2002/2676/contents/made) 2002
* [Dangerous Substances (Notification and Marking of Sites) Regulations 1990](http://www.legislation.gov.uk/uksi/1990/304/contents/made)
* [Pressure Systems Safety Regulations](http://www.legislation.gov.uk/uksi/2000/128/contents/made) 2000
* [Supply of Machinery (Safety) Regulations](http://www.legislation.gov.uk/uksi/2008/1597/contents/made) 2008
* Regulatory Reform (Fire Safety) Order 2005 (The Fire Safety (Scotland) Regulations 2006 made under the Fire (Scotland) Act 2005)
* Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009
* Control of Major Accident Hazards Regulations (COMAH) 1999
* [Control of Vibration at Work Regulations 2005](https://en.wikipedia.org/wiki/Control_of_Vibration_at_Work_Regulations_2005)
* Dangerous Substances and Explosive Atmospheres Regulations 2002
* Radiation (Emergency Preparedness and Public Information) Regulations 2001
* [Health and Safety: Consultation with Employees Regulations](http://www.legislation.gov.uk/uksi/1996/1513/contents/made) 1996
* [Gas Safety (Installation and Use) Regulations 1998](http://www.rossendale.gov.uk/info/752/health_and_safety_at_work-advice_and_training/71/health_and_safety_information_for_employees/14)
* Equality Act 2010

A full list of all UK Health & Safety legislation can be found on the HSE Website:- [**www**.hse**.gov.uk**](http://www.hse.gov.uk) **or** [**www.legislation.gov.uk**](http://www.legislation.gov.uk)

A Summary of the Key parts of main pieces of Legislation is attached.

Yours sincerely

DJ Sig

**Dave Joyce**

**National Health, Safety & Environment Officer**