

Health & safety at work



The Law Society

Health & safety at work

Health & safety legislation has moved away from a more prescriptive approach which detailed specific actions to be taken by employers and is increasingly directed towards setting out the procedures that employers must adopt to ensure that they identify the relevant risks and preventative measures appropriate to their own operations. Employers' duties have become wider but vaguer, often requiring employers simply to be 'reasonable'. Although this gives individual businesses more freedom and flexibility, it also becomes very important to check what standards other similar businesses are keeping to so they do not fall behind industry good practice.

Employers operating in industries with known hazards, such as mining or chemical plants, need to be familiar with specific regulations relating to those industries. The general duties contained in the Health & Safety at Work Act and subsidiary regulations apply to all workplaces, including 'benign' environments like offices. Criminal prosecution is the price of a serious breach, especially if a fatality or injury has occurred. If found guilty, you can be fined and/or face jail - for up to two years in some cases. For less serious breaches, health & safety inspectors may demand improvements to safety, or prohibit some activities altogether.

In addition to meeting all statutory requirements, you have a common law duty not to negligently expose staff to harm whilst they are at work. Otherwise you risk being sued for civil damages by an injured employee or, in the case of death, their dependants. Such cases often rely on failures to conform to health & safety requirements as evidence of civil liability.

Finally, employees must also take reasonable care whilst at work both for their own protection and that of others. Any training necessary to ensure the safe undertaking of a job must be provided by the employer.

This leaflet identifies the areas of law that you, as an employer, have to note. For general advice and information refer to the Health & Safety Executive website at www.hse.gov.uk. For how specific Acts might affect you, and whether your work conditions and methods fall within the law, you should consult a solicitor.

Requirements and good practice

Do you have employees working for you?

If yes....

The Health & Safety at Work Act 1974 (HSWA) requires that you provide them with a safe place of work.

Are you registered with the local authority or the Health & Safety Executive (HSE)?

If no...

Take care! Registration is a legal requirement depending on the type of business you operate and must be done without delay.

Do you have a Health & Safety Law Poster on display?

If no...

The Health & Safety Information for Employees Regulations require you to display a poster where your staff can see it or to provide leaflets giving health & safety information.

Have you carried out an assessment of risks to health and safety?

If no...

Take care! You have a duty to do so under the Management of Health & Safety at Work Regulations 1999 (the Management Regulations) and, if you have more than five employees, to record the results in writing.

Do you have a safety policy, detailing hazards in the workplace, evacuation procedures, names of people with responsibility for health & safety etc?

If no...

The HSWA requires you to have a policy! If you have more than five employees you must publish that policy to all staff.

Do you ensure that staff are competent/trained to do their jobs safely?

If no...

Take care! It is your duty under the HSWA to provide adequate health & safety training to new staff and where changes are introduced to equipment or working methods.

Do you involve your employees in decisions affecting their health & safety?

If no...

Take care! You are required to consult on health & safety matters either directly or through employee representatives.

Are you recording all staff injuries and reporting serious ones to the Health & Safety Executive?

If no...

Take care! You are breaking the Records and Notification of Injuries, Diseases and Dangerous Occurrences Regulations 1985 (RIDDOR).

Do you have sufficient staff trained in first aid?

If no...

H&S (First Aid) Regulations 1981 advises on the number of first-aiders per number of employees (approximately 1:50).

Are you displaying a current Employers Liability Insurance Certificate?

If no...

You must - it's the law!

Are you familiar with the Regulatory Reform (Fire Safety) Order 2005?

If no...

This Order replaces a previous legislation relating to fire precautions and requires assessments of fire risks to be carried out by a responsible person.

Have you checked your H & S procedures against industry standards?

If no...

Industry standards will be relevant to the risk assessment you carry out under the Management Regulations 1999 and to the preventative measures taken as a result.



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Are you following published HSE guidance on specific hazards and risks?

If no...

Take care! Phone HSE for relevant publications (tel 0845 345 0055) and check advice on noise protective equipment, manual handling, asbestos, pregnant women, PC screens, chemicals, driver training, electricity, etc.

If yes...

Excellent. Where no specific advice applies, use common sense.

Are you up to date on civil actions over health & safety, eg RSI, work stress?

If no...

Where civil actions have established employer liability for new 'hazards', you need to take steps to prevent injury to your employees from that hazard. Seek advice.

Checklist

- Have you carried out a workplace risk assessment?
- Do you know if your health & safety practices meet standards generally applied in your industry?
- Are you conforming to HSE advice on the safety of specific equipment, eg personal computers?
- Have you informed your employees of your and their duties in relation to health & safety by: displaying the Health & Safety poster; publishing your health & safety policy; identifying those with specific responsibilities etc?
- Do you have on display a current certificate of employers' liability insurance?
- Are you aware of your duties to visitors (eg salespeople)?
- Do you have adequate first aid provision, such as trained staff and first aid supplies?
- Do you have a procedure for logging all staff injuries and reporting serious ones, eg RIDDOR reports?
- Do you have a mechanism for involving your staff in health & safety matters?
- Have you taken into account the consequences of successful civil suits against employers for 'new' occupational injuries such as repetitive strain injury and work-related stress?

Lawyers For Your Business (LFYB)

Lawyers For Your Business (LFYB) represents around 1,000 firms of solicitors in England and Wales, which have come together to help ensure that all businesses, and especially the smaller owner-managed ones, get access to sound legal advice whenever they need it.

LFYB is managed and promoted by the Law Society and has been welcomed as a positive initiative by the Department for Business, Enterprise and Regulatory Reform, Chamber of Commerce, the Federation of Small Businesses and many other agencies and trade associations that are active in the small and medium sized business market.

We recognise that, for fear of running up large legal bills, a business will often not consult a solicitor until they have a serious problem. By then, of course, any remedy may be at its most expensive, if indeed one is still available.

In most cases businesses can save themselves money by seeing a solicitor for advice early on, especially where there is legislation to be complied with, or important legal documents such as contracts to be prepared. To remove the risk of incurring unexpectedly high legal costs, LFYB members offer a free consultation, lasting at least half an hour, to diagnose the problem and any need for action, with full information, in advance, on the likely costs of proceeding.

How to gain your free half hour consultation

For a list of solicitors in your area who are Lawyers For Your Business members

call: 020 7405 9075

e-mail: lfyb@lawsociety.org.uk

visit: www.lawsociety.org.uk/lfyb

or write to us at:

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