OSHAssociation UK

Occupational Safety and Health Training

INTERNATIONAL PROFESSIONAL CERTIFICATE IN OCCUPATIONAL SAFETY AND HEALTH

COURSE 102 GUIDE

HAZARDS & RISKS MANAGEMENT

Course 102 Guide

Course Content:

Unit 1: How Can We Eliminate Hazards and Reduce Risks?

Unit 2: What Does Legislation Say We Must Do?

Revision Questions.

Course 102 Guide

What are the Principles Involved?

The modern approach to health and safety at work is through risk management. By law, all workplaces must take steps to prevent and control accidents, incidents, personal injuries and ill health at work. This must be done firstly by assessing the hazards and risks involved in a particular work activity and thereby introducing appropriate measures that eliminate the hazards all together or reduce the risk from it to an acceptable level. This chapter introduces the principles involved.

Key Words and Phrases
Accidents – any unplanned event that results or could have resulted to personal injury or ill health; damage to, or loss of property, plant or material; damage to the environment or loss of business opportunities. Audit – a formal examination against a fixed standard by competent people who are independent of the area of work being audited Competent person – a person with the appropriate qualifications, knowledge and experience to identify the risks arising from a situation and the measures needed to control them. Ergonomic design – the application of scientific data about human, mental and physical capacities and performance to the design of work systems. Ergonomics – the study of the interaction between people and their work. Hazard – a source of danger, anything, condition or circumstance that could cause harm to people or damage to property Health and safety culture – the integration of health and safety awareness and control into day to day management practices. Health and safety executives (HSE) – the official British body responsible for enforcing health and safety law in industries. Health and safety policy – a written statement of an organisation's arrangement for and implementation of its health and safety management systems and activities. Hierarchy of control – a well-tested system of graded health and safety controls Incident (near-miss or near-miss accidents) – an unplanned event that does not result in personal injury, death or damage, but has the potential to do so.

Key Words and Phrases

Intervention programme – a series of actions designed to improve workplace health and safety standard and to reduce risk from health and safety hazards.

Management systems – a frame work of policies and procedures that helps an organisation to achieve its objectives

Monitoring – regular, general, daily, checks on what is going on in a workplace

Prevention and Precaution

There are a number of critical stages involved in controlling hazards and reducing risk from illnesses and accidents at work:

- Find out what causes harm
- Decide who in the workplace might be harmed
- Determine the preventive measures (controls) that can be introduced to reduce the risk of harm
- Plan the actions needed to introduce these measures
- Inform and train the staff
- Implement the measures
- Record the outcome of the work procedures and actions introduced to reduce risk
- Monitor and review success and make appropriate adjustments to procedures and controls

How this is carried out varies from company to company, but there are a number of recognised basic techniques for reducing accidents and ill health at work. They are based on general principles of preventions which are outlined below.

General Principles of Prevention:

The general principles of prevention are:

- Avoid hazards wherever possible
- Evaluate the risks that cannot be avoided
- Deal with the risks at source
- Adapt the work to the individual, for example, the design of workstations, the choice of work equipment and the choice of working and production methods – including alleviating monotonous work where possible
- Adapt work practices if there are suitable technical advances or improvements
- Replace anything that is dangerous with something that is not dangerous or is less dangerous
- Develop a coherent overall prevention policy that covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment.
- Give collective protective measures priority over individual protective measures
- Give appropriate instructions to employees
- Monitor and review performance and make adjustments where necessary.

Controls

The main control techniques are outlined below

- Using management and monitoring system
- Eliminating hazards by using the hierarchy of control
- Implementing intervention programmes
- Introducing ergonomics into the workplace
- Appointing competent persons
- Training managers, supervisors, safety representatives and workers
- Facilitating workers' involvement and working together

Management System

The fundamental aim of good health and safety practices in the workplace is to reduce the number and severity of injuries, ill health and incidents. This requires a logical and systematic approach to identifying the hazards in the workplace and controlling them so that the risk of being injured or becoming ill is as low as it can possibly be.

Health and safety management systems are designed to achieve this. A good management system sets goals, describes the means to get there, supplies the necessary resources and checks to ensure that the system has indeed achieved the desired goals. A health and safety management system should have the following elements:

- Policy – a written health and safety policy
- Organising – an organisational structure for health and safety
- Planning and implementing the health and safety policy
- Measuring performance and monitoring procedures – making sure the required standards are being met
- Auditing and reviewing – identifying problems and making sure they are dealt with through continual improvement.

Management principles

There are several principles underlying the health and management of safety at work:

- **Commitment** – the employer and senior managers need to give and demonstrate their full support for a positive health and safety culture in the organisation, ensuring that a key corporate aim is the continual improvement of the organisation's health and safety standard following regular reviews.

- **PartnerSHIP** – there is need for a genuine partnership between all the relevant parties in an organisation, such as the managers or the supervisors, employees and safety representatives. They are the stake holders in the health and safety of the organisation, so the chance to be involved in health and safety matters is likely to motivate them to make useful contributions towards achieving a positive health and safety culture

- **Structure** – the management structure for health and safety in the organisation should depend on the size of the organisation and the nature of the activity carried out. There should be good communications between all levels within the organisation.

- **Integration** – health and safety management system should be integrated into the organisation's overall policy, management arrangement and operation.

Health and Safety Policies

An organisation has a legal duty to implement a health and safety system that complies with health and safety legislation. Employers have a legal duty to make arrangement for the effective planning, organisation, control, monitoring and review of the preventive and protective measures, including any actions needed for continual improvement.

The health and safety arrangements can be made by developing a health and safety policy for the organisation written statement of the organisation or, arrangements for an implementation of the health and safety management system. This also helps employers to comply with their legal obligations and to show their commitment to health and safety.

The policy should be specific to the organisation and appropriate to the nature and scale of its activities. It should recognize the organisation's responsibilities and communicate them to its employees. Its principal aim should be to protect the health and safety of all members of the organisation by preventing work related injuries, ill health, diseases and incidents (non-injury accident). It should also include measures to protect and consider people who are not in their employment due to injuries sustained. It should direct the resources of the organisation in such a way to reduce risks or injuries to any one that may be affected by their operations.

Organising

Responsibilities and relationships need to be defined and established to ensure the management structure and other arrangements are effective. Competent persons must be identified to take the lead on health and safety issues and employees need to be trained and instructed appropriately. The systems introduced must ensure informed decision making, good communication and the allocation of resources.

Employees should be encouraged to take part in promoting health and safety and there should be systems in place for consulting employees on health and safety issues.
Managers, supervisors and safety representatives should be leaders, demonstrating the importance of health and safety by example – such as by acting positively through regular meetings on health and safety, regular report to the board of directors and the safety committee and including information about health and safety issues in the organisation's newsletter.
Everyone involved should regard health and safety as an ongoing issue that is part of their job.

Planning

The approach to health and safety issues should be planned and systematic. There should be a system for identifying hazards, assessing risks and deciding how they can be eliminated or controlled.

This can be done through risk assessment method and identifying priorities. The hierarchy of control should be used to deal with this hazards and risks.

A positive health and safety culture should be promoted through specific improvement actions. Standards of performance should be established and used to measure achievement and progress. These standards are the specific policies, safe work procedures and instructions for the organisation.

Measuring and Monitoring Performance

Health and safety management systems are effective only if they are integrated into the day to day working of an organisation. For continual improvement, performance should be monitored and reviewed at frequent intervals and the systems adjusted in light of findings.

Monitoring consists of frequent (possibly daily) checks on what is going on in the workplace so that you can deal with problems as they arise. The monitoring of health and safety controls is just as important as measuring the bottom line of a company's account and the performance of an effective
health and safety management system should be accurately measurable. This is active monitoring through looking at the premises, plants, substances, people, procedures and systems. This monitoring is done through record and documentation.

Health and safety performance standard should be set up so that you can measure your improvement or failure in implementing health and safety policies. **Performance indicators** can help in measuring your health and safety performance – for example, you could monitor accidents and illness rate, the training of employees, the information distributed to employees or members of the public, the health and safety performance of contractors, or the performance of your health surveillance program – this is reactive monitoring.

Findings from the analysis of such records should assist you in identifying any failure in a health and safety management system. This will help you to identify when and where action is needed to improve performance and the underlying health and safety management system.

Auditing and Reviewing

Auditing

An audit is a formal examination by competent persons who are independent of the area of work being audited or external to the organisation. An audit normally considers what is happening in the workplace in comparison to a fixed standard, such as quality health and safety management system. A regular audit of the management system makes it easy to decide whether the system is effective. Such audit should include the health and safety policy, employee's participation, health and safety management system record, prevention and control measures, and a possibility of continual improvement. If possible the record of an audit could be compared with other similar organisations.

Reviewing

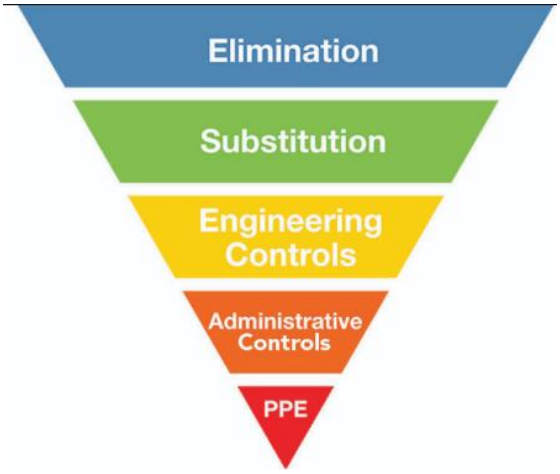
By looking at the record of accidents, injuries and absence from work you can identify trends and possible causes of absence. This could result in people taking less time off because they have fewer injuries. It could also help people to get back to work more quickly if they do need to take time off – for example, a health and safety management system with a good first aid system is likely to provide rapid assistance to injured employees, helping to minimise their recovery time. If there is a problem of violence or stress in the workplace, the introduction of a counseling service may assist employees to recover quickly.

Employers need to review the policy more regularly to make sure that it is relevant to their current activities. A systematic review of the health and safety performance of the organisation is essential, it is needed for the organisation to comply with the laws and to achieve continual improvement.

Information gathered from monitoring performance and the audit of the health and safety management system will help you to identify those areas that need to be improved on. You can compare your performance with other similar businesses, or, if you work for a large organisation, with other outlets, branches or units.

Reporting

Larger organisations should consider reporting their health and safety performance in their annual report. This demonstrates the organisation's commitment to health and safety and may encourage stake holders to comment on, or participate in the health and safety management system.



The Hierarchy of Control

A hierarchy is a system of things arranged in grade order. A **hierarchy of control** is a simple-to-follow grading to help you make a choice of controls to health and safety matters. It helps you to decide what controls would be most effective for dealing with the hazards and risks you have identified,

This illustration shows a general hierarchy of control. It is as follows.

1. **Elimination or avoidance**
   Eliminate the risk by removing the hazard from the workplace completely
2. **Substitution**
   Substitute a less hazardous substance or piece of work equipment.
3. **Controlling risk at source**
   Control the hazard by separating people from the hazard, for example, use guards to cover the dangerous parts of a machine, use local exhaust ventilation, enclose a machine to reduce noise, or use remote controls or automated processes so employees do not need to get close to the machine or process to operate them.
4. **Safe working procedures**
   Design a **safe system of work** or use a **permit to work** system to control the hazards and risks
5. **Training, Instruction, and Supervision**
   Provide trainings, information and instructions to employees and supervise them.
6. **Personal protective equipment (PPE)**
   Use personal protective equipment to reduce the risk of harm.

The first control in the hierarchy is to remove a hazard completely. The levels farther down the hierarchy deal with ways to control the hazards if they cannot be eliminated.

The best method of preventing accidents and reducing risks to employees is to eliminate the hazard altogether. The next best thing is to reduce the risk of any hazard that cannot be removed. This might be achieved by, for example, replacing a dangerous substance (such as asbestos) with one with similar properties that are less hazardous (such as fibreboard), or using better guarding systems on a machine, or redesigning an operation so that the employees working on the machine are unlikely to be hurt.

When considering control measures always start at the beginning of the list. If it is not possible to carry out the first course of action (elimination), consider the next measure down. Gradually work down the list if necessary.

Elimination is always the first choice and personal protective equipment is always the last choice. A combination of controls may be appropriate.

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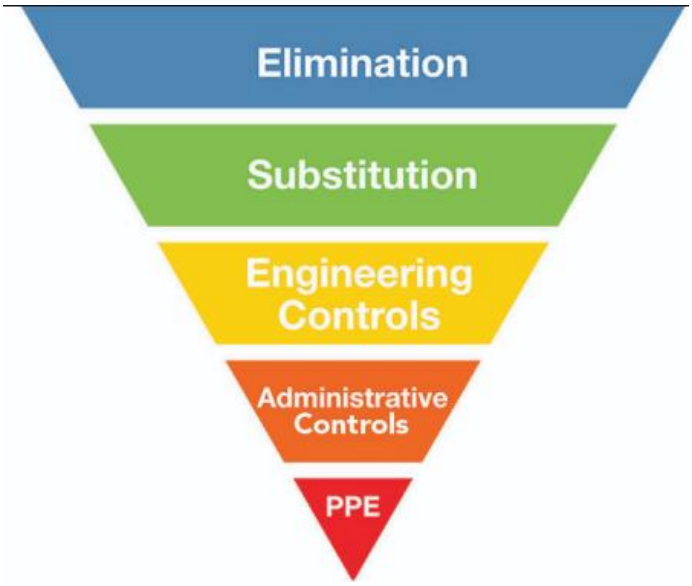
Any preventive measures taken need to be appropriate to the equipment, substance or system of operation. The prevention methods must be as simple as possible and the cost of introducing them needs to be reasonable.

You need to balance this reasonable cost with what is practicable in the circumstances. This means what is practicable in the light of whether the time, trouble and expense of precautions suggested are proportionate (or not) to the risks involved. **'REASONABLY practicable'** is balancing between the degree of risk and the cost control.



INTERVENTION PROGRAMMES

Intervention programme is a term used to describe a number of actions which, is aimed at changing the way health and safety is dealt with in an organisation. The actions intervene in the policies and procedures of an organisation and introduce new ways of working that reduces the number of hazards and the severity of risks to health and safety. For example, an intervention programme could be designed and implemented to reduce the number of accidents in a workplace or to increase the health and safety awareness of employees.

When designing and implementing an intervention programme the following elements should be included:

- Engage the commitment of senior managers to high standards of health and safety
- Carry out an audit of safety plans
- Analyse the causes of accidents
- Raise awareness of risks
- Identify preventive measures
- Set up work groups to identify the measures to be introduced
- Redesign systems intended to protect employees by reviewing the method of work and ensuring that the environment is suitable for the work being carried out
- Set up education, training and instruction programmes for employees
- Analyse the health and safety behavior of employees in a wide range of circumstances.

The result of intervention programmes can often lead to a reduction in the frequency and severity of accidents, and the cost of the safety measures introduced can be repaid in just a few months.

Ergonomics

Ergonomics is the study of the interaction between people and their work. Ergonomic design is normally defined as the application of scientific data about human mental and physical capacities and performance to the design of work systems. it aims at making the task, equipment, information and work environment suit every worker.

In general, it involves designing tools, equipment, work stations and workplaces so that the job fits the person, rather than trying to make the person fit the job. An ergonomic approach takes into account the size and shape of the human body and even psychological aspects such as mental abilities, personality, knowledge and experience.

Ergonomics can be used for identifying and controlling hazards and solving physical problems – for example, in the use of display screen equipment, manual handling and work related stress.

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Competence means being capable of doing a particular task or activity according to standard in relation to health and safety at work, competence means being capable of carrying out work in a safe and healthy manner appropriate to a level of responsibility.

The factors that determine competence in health and safety are knowledge, skills and experience in a particular subject.

Knowledge is often, but not exclusively, obtained from structured learning on courses of study or training. The courses may be short – say, three days – focusing on a specific subject such as risk assessment, or longer at a higher level – for example, the CIEH level 4 Award in health and safety at work or a degree.

Skills are normally physical skills but mental skills are also relevant to health and safety. Experience is usually gained by performing a particular task or activity. Although the necessary skills and knowledge for a job can be gained from experience, that experience may be limited to only what is necessary for a particular task or activity, so may lack the breadth or depth of understanding what is really needed for the subject.

So, a competent person is someone with the appropriate qualifications, knowledge and experience needed to identify the risk arising from a situation and the measures needed to control them.

For example, a registered gas engineer/ technician is a person who is required by law to be approved by the health and safety executives before being permitted to carry out work on gas supplies and installations. A tree surgeon or gardener requires a certificate of competence in the use of pesticides before being legally permitted to apply a herbicide to a tree stump to kill it.

However, certificates of competence are not always required to ensure and prove competence

– for example, a well-trained employee would be competent to inspect a ladder before using it.

Appropriate training should be arranged to give employees adequate knowledge of the hazards and the failures of the equipment for which they are responsible. It should also provide the knowledge and understanding of the working practices used in the organisation for which employees work.

Competent Persons

The approved code of practice for the management of health and safety at work regulations 1999 makes it clear that competence does not solely rest on skills or qualifications but also involves:

- An understanding of relevant current best practices
- Awareness of the limitations of one's own experience and knowledge
- The willingness and ability to supplement existing experience and knowledge.

Employers and managers must satisfy themselves that the people employed to control major hazards are competent to do so. They also need to be sure that the company has competent employees who have the skill, experience and knowledge to do their job properly and safely under all working conditions.

Some of the areas of work that needs to be covered are to develop and review the organisation's health and safety strategy and policy; develop and implement effective communication systems for health and safety information; identify and evaluate health and safety hazards; assess health and safety risks; determine and assist with the implementation of health and safety control measures and monitoring systems.

Throughout this course you will see that there are many examples of where employers need to make sure that the person carrying out a task is competent to do so.

Training and Information

Employers and managers must satisfy themselves that they employ competent persons to carry out activities safely and without risk to health. By providing training – helping people to learn how to do something – and information, employers and managers can encourage competence, create a positive health and safety culture, manage health and safety better and meet up with legal duties to protect the health and safety of their employees.

Employees in an organisation need training that is appropriate to their work. For example, board members need training about their legal responsibilities and how they can fulfil them and about their responsibilities for setting the organisation's health and safety strategy.

Managers need training about their part in developing the strategy of the health and safety policy and the resources needed to implement them. Supervisors need training on how to implement the health and safety policy through risk assessment, monitoring systems and recording health and safety information.

Safety representatives need training on the health and safety system in their organisation and how they can influence their workplace health and safety issues. Employees need training to carry out their duties safely and without risk, they also need information and training about their responsibilities to others who may be affected by their actions.

Working Together and Worker Involvement

The value of involving employees in redesigning systems of work to make them safer cannot be understated. After all, they know the job best, they can advise on improvements and will probably benefit most from the system designed to protect them. There is need for detailed discussions among the target group of employees, safety representatives, supervisors and managers.

Managers and supervisors should listen to what the safety representatives and employees have to say and encourage them to make suggestions on how the job can be done safely and more effectively. This can be done through a safety committee, if one is set up in the organisation. It is important not to dismiss suggestions but to talk about them and get the agreement of the workforce to adopt safe methods of working.

There are bound to be disagreements during discussions, but supervisors and safety representatives are in a good position to deal with the conflict. They can identify the cause of the disagreement and outline a possible solution. They can also discuss the advantages and disadvantages of the proposals and help to negotiate and agree on a solution.

Everyone with a stake in the safety of a particular operation or system should be involved in the

redesign team. Team members might include representatives of senior management, supervisors, and middle managers, workplace safety representatives and safety officers, other trade

union officers, insurance loss adjusters, environmental health workers, health and safety specialists from your local enforcing authorities and national health service staff.

LEGAL REQUIREMENTS

Under the Health and Safety at Work Act 1974, employers with 5 or more employees must have a written statement of the company's health and safety policy and the arrangements for implementing it.

The management of health and safety at work regulations 1999 require employers to carry out risk assessments, create safe systems of work and appoint one or more persons to assist them in complying with their legal duties.

Legislation also require risk assessments to be carried out. They include- the health and safety regulations 1992; the manual handling operations regulation 1992; the provision and use of work equipment regulations 1998; the control of substances hazardous to health regulations 2002 and the control of noise at work regulations 2005.

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Most countries legislate for health and safety standards. Many of these standards are based on conventions and recommendations about working condition drawn up by the European Union (EU) or the World Health Organisation and International Labour Organisation – specialised agencies of United Nations (UN). Conventions are international treaties while recommendations can determine national policy and action even though they are not binding on member state of the UN or the EU.

The standards come about with the involvement of governments and representatives of employees and employers. Member states are obliged to put in place the standards as far as is possible. Standards are enforced by requiring member states to report regularly on implementation or when specific allegations are made against a member state.

Key Words and Phrases

Approved code of practice – formal guidance, generally issued by the health and safety executive (HSE) on behalf of the government containing detailed information on how to comply with the law.

Code of practice – practical guidance and advice on how to achieve the standards required by legislation.

(EU) Directive – European Union legislation that requires member states to achieve desired results, but without dictating the means of achieving it.

Environmental health officer (EHO) – an officer employed by local authorities to enforce health and safety law. Also known as Environmental Health Practitioner (EHP) or Regulatory Officer.

(EU) Regulation – European Union legislation that immediately becomes enforceable as law in all member states at the same time.

European Commission – the executive branch of the European Union which proposes legislation and implements the decisions of the union.

European Union – the economic and political partnership between 27 democratic European countries.

Guardians – specific advice on how to achieve the standards required by the legislation where there is no approved code of practice.

Health and safety executive (HSE) – the official British body responsible for enforcing health and safety laws in many industries.

Key Words and Phrases

Local authorities – local councils delegated by the secretary of state to enforce health and safety laws in the commercial and retail sector.

Plants – machinery or equipment used in an industrial or manufacturing process.

Primary legislation – made laws passed by the legislative bodies in the UK

Reasonably practicable – what is practicable based on whether the time, trouble and expense of the precaution suggested are proportionate to the risk involved.

Secondary legislation – laws made under the authority of primary legislation.

The EU Approach to Health and Safety

Members of the European Union believe there is a need to improve working conditions throughout the member states for both humanitarian and economic reasons. One of the key objectives of the EU is to create more jobs of better quality. A safe and healthy working environment is an essential element for work quality.

The scope of the EU influence is not limited to legislation because it also provides information, guidance and the promotion of a healthy working environment, with a particular focus on medium and small scale businesses. Several committees have been set up by the European Commission to advise on improving standards to health and safety. The advisory committee on safety and health at work (ACSH) assist in the preparation, implementation and evaluation of activities in the field of safety and health at work.

Specific EU Aims

The aim of the EU is to cut down work related illnesses and accidents across the EU by a quarter in the following years under a strategy on health and safety at work. This strategy follows a seventeen percent reduction in fatal accidents from 2002 to 2004 and a twenty percent fall in accidents leading to absence from work of three days or more. But progress is uneven across countries, sectors, companies and categories of workers.

The EU is using a number of methods to achieve its ambitious goal by:

- Guaranteeing the proper implementation of EU legislation
- Supporting small and medium businesses in the implementation of the legislation in force
- Adopting the legal frame work to changes in the workplace and simplifying it
- Promoting the development and implementation of specific national strategies
- Encouraging changes in the behavior of workers and encouraging their employers to adopt health-focused approaches
- Finalizing the methods for identifying and evaluating new potential risks
- Improving the tracking of progress
- Promoting health and safety at an international level

European Agency for Safety and Health at Work

The European Agency for safety and health at work is the agency with the responsibility for health and safety. Its aim is to make Europe's workplaces safer, healthier and more productive.

The agency is a catalyst for developing, collecting, analysing and disseminating information that improves the state of occupational safety and health in Europe. It brings together representatives from three key decision-making groups in each of the EU member states – government, employers and workers' organisations.

The agency is based in Bilbao, Spain 'Focal Point' – the agency's principal safety and health information network – have been set up in seventeen countries in the EU to co-ordinate health and safety activities throughout Europe.

'Focal Point' is nominated by each government as the agency's official representative in that country and is normally the competent national authority for safety and health at work. In England, Scotland and Wales, the national authority is the health and safety executive. In the Northern Ireland it is the health and safety executive for Northern Ireland.

These national organisations are responsible for the organisations and co-ordination of the national networks and are involved in the preparation and implementation of every agency's work programmes.

Most health and safety regulations in the UK follow an EU directive and is implemented through one major piece of legislation – such as the health and safety at work. act 1974.

Under civil proceedings – for example, Country Court in England, Wales and Northern Ireland – a court may order a business to pay compensation to someone who suffered injury from an accident. For historical reasons the legal system of Scotland and Northern Ireland varies slightly from that of England and Wales.

Health and Safety at Work Act and Northern Ireland Order

The main piece of primary legislation dealing with workplace health and safety in England, Wales and Scotland is the health and safety at work. Act 1974. (This is sometimes

abbreviated informally to HASAWA 74.) There are largely similar provisions in the Northern Ireland under the health and safety at work (Northern Ireland) order 1978. (This is sometimes abbreviated informally to HSW Order)

Background

Before these two major pieces of legislation came into force, legislation was largely based on the nineteenth–century regulations and had not kept pace with the development of modern industrial and commercial practices. The health and safety at work Act 1974 and the health and safety at work (Northern Ireland) order 1978 rectified this situation.

The Acts is largely based on the reports of the Robens Committee on safety and health at work published in 1972. The legislation was reviewed between 1999 and 2000, but no major modification was considered to be necessary, even though some of the Roben's Committee recommendation have not been introduced. The Act has stood the test of time as a very useful piece of legislation that provides a robust frame work for the health and safety provision and practices in the workplace.

Enabling Legislation

The health and safety at work. Act 1974 is an enabling Act. It makes it possible, for example, for the government to make regulations – more detailed legislation that prescribes the standards – that an organisation must comply with in their workplaces. The regulations are broadly grouped into those dealing with:

- Health and safety management in general
- Particular hazards

To assist in the interpretation of these regulations, the health and safety executives (HSE) issue approved codes of guidance for employers and employees

What is covered?

The rest of this course looks at the structure of the legislation, codes of practice and guidance in more details. For ease of reading, the course refers to the health and safety at work Act 1974 simply as the Act.

Aims of 'the Act'

The aims of the Act are to:

- Secure the health, safety and welfare of people
- Protect people, other than those at work, against the risk of their work activities to their health and safety.
- Control the keeping and use of explosives, highly inflammable or otherwise dangerous substances at work.

The legislation describes the system of control; including the organisation that over sees health and safety legislation. It also provides for regulations and approved codes of practice which sets the particular standards of health, safety and welfare at work.

The following paragraph describes the main features of the Act.

Regulating workplace health and safety

There are two main organisations that regulate health and safety in workplaces throughout the UK:

- The health and safety executives
- Local authorities (local councils)

Health and Safety Executives

The health and safety commission and the Health and Safety Executives (HSE) were originally established under the Act as two separate public bodies. From 1st April 2008 HSE became the single national regulatory body responsible for promoting the cause of better health and safety at work. The new HSE retains its independence and works in the interest of employers, employees and local authorities.

It proposes health and safety law and standards and consults organisations and individuals with interest in health and safety – such as professional bodies, businesses, trade unions and scientific experts. It regulates health and safety law in industries such as chemical plants, construction sites, factories, fairgrounds, farms, hospitals, mines, nuclear installations, offshore gas and oil installations, quarries, railways and schools. It also provides information, advice and guidance about the workplace.

Local Authorities

The HSE gives local authorities delegated power to regulate health and safety laws in premises such as retail shops, offices, catering services including restaurants and hotels, residential accommodations, caravan sites, ware houses and wholesalers; leisure and sports amenities; churches and church halls; child care facilities; and consumer service based retail shops, such as launderettes and cosmetic services. Local authorities also provide information, advice and guidance – for example through the environmental health officers (EHOs) and practitioners (EHPs).

Authorised officers

Health and safety laws are enforced by:

- Health and safety inspectors from the HSE

- Environmental health officers (and EHOs) and technical officers from local authorities
- Fire officers from the fire service (for workplace fire precaution)

If you work in a factory, farm or hospital, for example, your enforcement (or regulatory) officers are health and safety inspectors from the HSE. If you work in a shop, a restaurant, a pub, a warehouse or a private sport centre, for example, your enforcement officer is a local EHO. Fire officers can visit all of these premises for the purpose of enforcing the law on fire safety and fire precautions.

Authorised officers have considerable legal powers, such as the right to enter any workplace at any reasonable time and to serve legal notices.

Legal Responsibilities

Everyone involved in a workplace has a responsibility for their health and safety. The Act makes it clear that everyone at work – employers, managers, supervisors, safety representatives and workers – has some responsibility for their health and safety in the workplace.

Employers and managers for example, have the obligation to identify hazards, assess the risk present in a workplace and to introduce precautions and preventive measures to reduce risks. The specific responsibilities imposed by the health and safety at work. Acts 1974 are outlined below. The provision under the health and safety at work (Northern Ireland) order 1978 are virtually identical.

Employers' Responsibilities to Employees

Every employer has a duty to ensure the health, safety and welfare at work of all employees, so far as is reasonably practicable.

The responsibilities include:

- Providing and maintaining plants and systems of works that are safe and without risk to health
- Making arrangements for ensuring safety and the absence of risk to health in connection with the use, handling, storage and transportation of particles and substances
- Providing information, instruction, training and supervision that is necessary to ensure the health and safety of employees at work
- Maintaining the place of work in a condition that is safe and without risk to health (this also applies to the owners of buildings and premises)
- Providing and maintaining a working environment that is safe to the employees and without risk to their health, and providing and maintaining adequate facilities and arrangement for their welfare at work.
- Providing, where necessary, health surveillance of the employees
- Providing measures to protect vulnerable groups such as children, young people, people with disabilities and pregnant women.

Employers must also prepare a written statement about:

- Their general policy towards employees' health and safety at work
- The organisation and arrangement for carrying out that policy

The policy must be brought to the attention of all employees. This can be done either by giving every employee a copy of the policy, or by posting the policy on the notice board, or by informing the employees where they will obtain a copy of the policy. The content of the policy should be reinforced by instruction, information and training

Employers have a general duty to consult their employees about health and safety issues that affect them. Where safety representatives have been appointed in the workplace, employers have the duty to consult them. This helps to make and maintain arrangement that enable employers and employees to cooperate effectively in promoting, developing and checking the effectiveness of measures designed to protect the health and safety of employees at work.

In certain circumstances, the employer also has the duty of establishing a safety committee which can keep under review, the health and safety measures at work.

Employers also have a duty not to charge employees for anything done or provided in the interest of health and safety at work. Employers must not, for example, make a charge for personal protective equipment that is required for health and safety purposes.

An organisation with a board of directors or trustees needs to accept its collective role in providing health and safety leadership in the organisation in a formal and public manner.

One of the board members should be appointed as the health and safety director, but each member of the board needs to accept his or her individual role in providing health and safety leadership for the organisation.
The board also needs to:

- Ensure that all board decisions reflect the company's health and safety intentions, as expressed in the health and safety policy.
- Recognise its role in engaging the active participation of workers in improving health and safety.
- Ensure that the board is kept informed of, and alerted to, relevant health and safety management issues.

Self-employed people are responsible for their own health and safety. They must look after their own health and safety as if they were their own employees.

Employers' Duties to People other than Employees

Most part of this course concentrates on employers' responsibilities to their own employees, but employers and the self-employed also have responsibilities towards people who are not their own employees. They have a duty to carry out their work activities in such a way as to ensure, so far as it is reasonably practicable, that people who are not their employees but who may be affected by their work activities, are not exposed to risks to their health and safety.

Employers and self-employed persons must provide information to people who are not in their employment about work activities that may affect the health and safety of non-employees. For

example, a building contractor must provide information about the dangers in a construction site to any staff working on the site who are employed by sub-contractors.

Duties of Persons in Control of Premises

People who have control of premises (or have control over the means of access to or from the premises, or control over any plant or substance in the premises) have health and safety responsibilities. They have a duty to take reasonable measures to make the premises, access and the plant or substances used on the premises safe and without risk to health. The responsibility also applies to people who repair and / or maintain premises, plants or substances, usually because of a clause in a tenancy or work contract.

Duties of Designers, Manufacturers, Importers and Suppliers

Designers, manufacturers, importers and suppliers also have health and safety responsibilities. They must:

- Ensure, so far as is reasonably practicable, that an article is designed and constructed to be safe and without risk to health when it is used properly.
- Carry out research, testing and examination to ensure the article is safe and without risk to health.
- Provide adequate information about the use for which the article has been designed and how it is to be used and operated.

This duty also applies to manufacturers, importers and suppliers of substances used at work.

Duty to Members of the Public

An elderly member of the public was killed by a reversing lorry while taking a short cut through the delivery yard of a DIY store. She did not hear the reversing alarm because she was deaf. The boundary fence between the delivery yard and the housing estate was regularly broken down by residents taking the short cut. The company was held liable for failure to ensure that the fence was properly secured to prevent members of the public gaining access to the yard.

Duties of Employees

While at work every employee has a duty to take reasonable care of his or her own health and safety and that of other people who may be affected by what he or she does or does not do in the course of carrying out their work.
Employees also have a duty to cooperate with their employers so that the employer can comply with the relevant employers' duty.

A general duty applies to everyone not to intentionally or recklessly interfere with, or misuse, anything in the interest of health, safety or welfare. Employees must use all work items provided by employer in accordance with the training and instruction provided for them.

Staff should be encouraged to report any health and safety problems and short comings that may affect other staff.

Regulations

The detailed standards that apply in health and safety law are contained in UK regulations (secondary legislation) made under the health and safety at work. Act 1974 and the Northern Ireland order. The regulations set the standards for health and safety at work in the UK and control the organisation, arrangement, processes and procedures in any workplace. Regulations can also delegate enforcement responsibility, create approved documents, specify the persons who are guilty of an offence, provide a specified defense in the event of proceedings, and apply to particular types of premises only.

Many health and safety regulations were made in 1992 to consolidate and replace a large number of regulations dealing with small details. Since then some of the regulations have been updated. Some regulations have been made under devolved powers in Wales, Scotland and Northern Ireland

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Examples of Regulations

The management of health and safety at work regulations 1999 require organisations to carry out risk assessments and manage the risks identified. Other important regulations include:

- The health and safety (first aid) regulation 1981
- The electricity at work regulation 1989
- The personal protective equipment regulation 1992 (often referred to as 'the PPE Regs')
- The manual handling operations regulations 1992
- The workplace (health, safety and welfare) regulations 1992
- The health and safety (display screen equipment) regulation 1992 (often referred to as 'the DSE Regs')
- The reporting of injuries, diseases and dangers occurrence regulations 1995 (often abbreviated as RIDDOR)
- The health and safety (safety signs and signals) regulation 1996
- Health and safety (consultation with employees) regulations 1996
- The safety representatives and safety committee regulations 1997
- The confined spaces regulations 1997
- The lifting operation and lifting regulations 1998 (often abbreviated as LOLER)
- The provision and use of work equipment regulations 1998 (often abbreviated as PUWER)
- The gas safety (installation and use) regulations 1998
- The ionising radiations regulations 1999
- The pressure systems regulations 2000
- The control of substances hazardous to health regulations 2002, as amended (often abbreviated as COSHH)

- The control of lid at work regulations 2002
- The control of noise at work regulations 2005
- The work at height regulations 2005, as amended in 2007
- The control of vibration at work regulations 2005
- The regulatory reform (fire safety) order 2005
- In Scotland, part 3 of the fire (Scotland) Act 2005 as amended, and the fire safety (Scotland) regulations 2006
- The control of asbestos regulation 2006

Interpreting Legal Terms

When reading regulations you will come across the terms 'adequate', 'suitable and sufficient' and 'reasonably practicable' to describe a particular standard. Approved codes of practices and guidance give employers and enforcement officers advice on how to interpret these terms.

Codes of Practice

The health and safety executives can provide practical guidance for employers and employees to help them comply with the regulations and duties that apply to them. The advice is issued as

Codes of Practice

Many professionals and other bodies that set standards such as trade unions, manufacturers and trade or professional Associations, can also produce codes of practice.

Approved Codes of Practice

If the health and safety executives approve the standards of a code of practice (after they have the consent of the Secretary of State), they can bear the title approved code of practice. They include standard specifications and any other form of practical advice.

Approved codes of practice have a special place in legislation. They are not laws, but a failure to observe any part of an approved code of practice may be put forward as evidence in criminal court proceedings about a related alleged contravention of health and safety legislation. If the advice in the approved code of practice has not been followed, then it is up to the defendant to prove that they have satisfactorily complied with the requirements with some other equal effective way.

A similar example of this legal practice is the high way code. A failure to observe a provision of the high way code does not in itself make the perpetrator liable to criminal proceedings, but the failure to observe a provision may be used to establish liability. Examples of approved codes of practice include:

- Management of health and safety at work
- Workplace health, safety and welfare
- Control of substances hazardous to health
- Control of lid at work
- Management of asbestos in non-domestic premises
- Safe use of work equipment
- Safety of pressure systems
- Safe use of lifting equipment
- Rider-operated lift trucks – operator training

- Safety representatives and safety committees
- First aid at work

Guidance

The health and safety executives also produce guidance on many other technical health and safety subjects. Guidance does not have the same standing in law as approved codes of practice but it can be used by employers if followed, to show that they have complied with a recognised standard. Examples of guidance include:

- Manual handling
- Sitting at work
- Workplace transport safety
- A step-by-step guide to COSHH assessment
- Reducing noise at work.

Enforcement

Enforcement (or regulatory) officers are appointed by the enforcing authorities (the health and safety executives or the local authorities) by being issued with a warrant. The warrant specifies the officer's powers and must be produced if requested. Depending on the industrial sector in which you work and the work activity involved, your regulatory officer may be a health and safety executive inspector, an environmental health officer, technical officer or fire officer, all of whom may also be known as enforcement officers. In certain circumstances, these officers can be issued with a 'flexible warrant' that allows them to operate in any premises, irrespective of the type of industry.

The Powers of Regulatory Officers

Inspectors have wide ranging powers including the right of entering any workplace, the right to serve legal notices requiring improvement of work to be done and the right to prohibit work procedures, processes or the use of work equipment. Inspectors may:

- Enter premises at any reasonable time
- Take a police officer with them
- Take any authorised person or any equipment or materials required to help in an inspection or investigation
- Make necessary examination in an investigation.
- Direct that premises be left undisturbed
- Take measurements, photographs and recordings
- Take samples of any article or substance
- Dismantle or test any article or substance
- Take possession and detain any article or substance for examination or to ensure that no one tampers with it or that it is available for evidence
- Require any person to give information to assist with any examination or investigation
- Require books or documents to be produced, inspected or and copied
- Require that assistance and facilities be made available to allow the inspectors' powers to be exercised
- Seize and render harmless, any article or substance that the inspector believes to be a cause of imminent danger of serious personal injury.

Risk-Based Inspections

Inspectors approach their work in several ways. They have a program of regular (normally unannounced) inspections of premises at which they advise the owners or managers about any contraventions of the health and safety legislation. This inspection programmes are based on assessment on the level of risk posed by the premises or its work activities. So, the higher risk premises are inspected more often than the lower risk premises.

The inspectors can give advice or they can take more formal action by serving an improvement or prohibition notice (see below). In most extreme circumstances, they may prosecute without warning. However enforcing authorities will only prosecute when only proceedings are proportionate to the breach, and inspectors will invite discussions whenever possible before making a final decision or prosecution.

Improvement Notices

If an inspector thinks there is a contravention of health and safety legislation, he or she can serve an improvement notice on the person responsible or in charge at the time. The notice states the details of the alleged contravention and the reasons why it is thought that there has been a breach of the law. The notice requires the persons responsible to 'remedy the contravention' within a period specified in the notice. The person responsible is the employer, director, manager or supervisor in charge of the premises at the time of the inspection.
The notice must state:

- That a contravention exists
- The details of the law contravened
- The inspector's reasons for his or her opinion
- That the person responsible must remedy the contravention
- The time given for the remedy to be carried out – this must be not less than twenty one days

If a person fails to comply with an improvement notice, he or she commits a criminal offence

Prohibition Notices

If an inspector believes that work activities will involve 'a risk of serious personal injury', he or she may serve a prohibition notice on the person in control of the work activity.
The notice must:

- State that, in the inspector's opinion, there is a risk of serious personal injury
- Identify the matters which create the risk
- Give the reasons why the inspector believes there has been any contravention of health and safety law
- Direct that the activities stated in the notice must not be carried on, by or under the control of the person served with the notice, unless the matter which creates the risk has been remedied.

A prohibition notice can take immediate effect or can be deferred so that the situation can first be made safe.

Appeals

A person who is served with either an improvement or a prohibition notice can appeal against the notice to an employment tribunal.
An employment tribunal consists of a legally qualified chairperson and two other members, one

representing the employers, the other representing the employees. The tribunal has the power to hold a pre-hearing review or a case management discussion.

Other powers include ordering someone to answer questions in writing or to provide additional information; making orders for witnesses to attend a hearing or for witness statements to be prepared or exchanged; ordering documents to be disclosed; postponing or adjourning any hearing; making a decision that has been agreed in writing by the parties before the hearing. The tribunal can make an order for cost up to £10,000 against either party.

The grounds for appeal might be that the inspector interpreted the law incorrectly or exceeded his or her powers. Alternatively, a contravention might be admitted, but the appeal would be that the remedy was not 'practicable' or not 'reasonably practicable'. In other circumstances, a contravention might be admitted, but the appeal would be that the incident was so insignificant and that the notice should be cancelled.

If an appeal is made against an improvement notice, then the notice is suspended until the appeal is heard. If an appeal is made against a prohibition notice, the notice is suspended only if the employment tribunal suspends it.
If there is no compliance with the notice, the person served with the notice can be prosecuted.

Offences

A contravention of the health and safety at work etc. Act 1974 (or the equivalent order in Northern Ireland) or any of the regulations made under the Act is a criminal offence. Both an individual and a corporate body can commit an offence and be prosecuted in court. It is an offence to:

- Fail to carry out a duty placed on employers, the self-employed, employees, owners of premises, designers, manufacturers, importers or suppliers.
- Intentionally or recklessly interfere with anything provided for safety
- Ask an employee to pay for items, such as personal protective equipment, that an employer must legally provide in the interest of health and safety.
- Contravene any requirement of any health and safety regulations
- Contravene any requirement imposed by an inspector.
- Prevent or attempt to prevent a person from appearing before an inspector, or from answering his or her questions
- Contravene an improvement or prohibition notice
- Intentionally obstruct an inspector in the exercise of his or her powers or duties
- Intentionally make a false entry in a register book, notice or any other document which is required to be kept
- Intentionally or recklessly make false statements
- Pretend to be a health and safety inspector
- Fail to comply with court orders.

If an offence is specified as a summary offence, it is heard by magistrates in a Magistrate Court in England, Wales or Northern Ireland. If the offence is an indictable offence, it is tried in a Crown Court (with a judge and jury) in England, Wales and Northern Ireland. Some offences can be tried 'either way' – in either a Magistrates' Court or the Crown Court.

Penalties

If found guilty of a health and safety offence summary conviction, a maximum fine of £20,000 can be imposed by the court. On indictment, the level of fine for a health and safety offence is unlimited.

A maximum of twelve months' imprisonment can be imposed on summary conviction for contravening an enforcement notice (maximum two years' imprisonment when convicted of an indictment). Fines (as specified above) may be imposed in addition to prison sentences in such cases.

Individual company directors and senior managers can be found guilty of an offence committed by their organisation if it can be shown the offence was committed with their consent, or was due to their neglect. In such cases, the director or manager would face the penalty specified for that offence.

For most health and safety offences, the court also have the power to disqualify directors of companies – for up to five years in a magistrates' Court and for up to fifteen years in the Crown Court.

The Act also states that where a person has committed an offence due to the act or default of someone else, then that other person may be found guilty of that offence, whether or not proceedings are taken against the first person.

Revision Question

Do the following quiz to evaluate your performance of study and review with your course tutor.

Good starting for you:-)

1. List four (4) general principles in the prevention of accidents in a workplace?

_____

_____

2. **Define the following terms:**

Risk assessment

_____

_____

_____

Reasonably practicable

_____

_____

_____

Health and safety management system

_____

_____

_____

3. In the hierarchies of control you know, which of them is the least effective and explain why?

_____

_____

_____

_____