

LAWPACK



Health & Safety

at Work Essentials

The one-stop guide for anyone
responsible for health and safety
issues in the workplace



5th EDITION

This is an excerpt from Lawpack's book *Health and Safety at Work Essentials*.

To find out more about Health & Safety Rules and Health & Safety Regulations, [click here](#).

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For convenience (and for no other reason) 'him', 'he' and 'his' have been used throughout and should be read to include 'her', 'she' and 'her'.

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CHAPTER 2

Starting a business

Initial considerations for the employer

2.1 Registering your business

If you are starting a commercial or industrial business and are employing people, you are legally obliged to notify your local Health and Safety Executive (HSE) inspector or local authority. Check which enforcing body is responsible in chapter 1, section 2. If your business involves manufacturing or processing or providing a service such as dry cleaning or telephone repairs, ring HSE's Infoline and they will send you a form to complete (see the Appendices for their contact details),

If your business is a shop, office, restaurant, hotel, launderette or residential home, your local authority's environmental health department will send you a form. If you are in doubt as to who to register with, telephone the HSE's Infoline.

2.2 Providing information to employees

You should be aware that certain health and safety information must be provided to your employees in order to comply with the law. This includes:

1. the Health and Safety Law poster/leaflet;
2. the location of first aiders and the first aid box;
3. the location of the accident book;
4. the health and safety policy document.

The health and safety law poster

It is a legal requirement that a Health and Safety Law poster is displayed in the workplace. A large A2 poster is published by the HSE and must be displayed prominently so that employees have the opportunity to familiarise themselves with the law on health and safety at work. Alternatively, a leaflet can be given to all workers. These posters or leaflets can be obtained directly from the HSE. Details, which need to be put on the poster, include the:

- name of an employee representative (if there is one);
- name of a management representative (which could be the employer in a small business, provided that he has the correct training);
- contact details of your enforcing authority.

First aiders

Legal considerations apart, there is clearly a case for having as many people as possible trained in basic first aid procedures. Such knowledge could be instrumental in saving the life of a person whatever the circumstances. However, the law says that you must have:

- a person in your workplace who can take charge in an emergency;
- a first aid box;
- a notice stating where the first aid box is and who the approved person is;
- a trained first aider and first aid room if your workplace gives rise to special hazards.

Once the health and safety risks associated with your particular business have been assessed (see section 4 for further information), you can consider whether you simply need to nominate a person to be responsible for first aid or whether you need to have a trained first aider. Also you will need to know what the minimum number of items in your first aid box should be, how many first aid boxes are required and where they should be located.

On the next page is a guide as to the requirements for first aiders. It is not a legal requirement. As your company grows, it is important to reassess the need for qualified first aiders.

The Health and Safety (First Aid) Regulations 1981 lay down various requirements for the provision of suitably trained first aiders in the workplace. Training courses in first aid at work are provided by training organisations, which must be approved for this purpose by the HSE. Currently, the HSE accepts courses run by the Resuscitation Council (UK), St. John Ambulance, St. Andrew's Ambulance Association and the British Red Cross.

Once a course is completed, your employee holds a valid first aid at work certificate. This must be renewed every three years. A shorter updating course can then be undertaken. However, if the course is not attended before the expiry of the three years, then the employee must completely retrain.

You will find further details of training courses and organisations in your area from your local HSE office or your local employment medical adviser.

Do remember that first aiders and people with first aid responsibility will be away from work from time to time so you need to arrange appropriate cover.

You should also be aware that the compulsory element of the employer's liability insurance does not cover litigation resulting from first aid to non-employees. However, many public liability insurance policies do cover this aspect and you may want to check your public liability insurance policy on this point.

If you have a first-aid room, it must be easily accessible to stretchers and be sign-posted.

Type of business	Number of workers	First aid provision
Lower Risk Retail shops, offices (accountants, solicitors, etc), public buildings, car showrooms	Fewer than 50	At least one responsible employee
	Between 50 and 100	At least one first aider
	More than 100	One additional first aider for every 100 employed`
Medium Risk Assembly plants, warehousing units, engineering business, food production	Up to 20 employees	At least one responsible employee
	Between 20 and 100	Two first aiders
	More than 100	One additional first aider for every 100 employed
Higher Risk Chemical plants/ manufacturing, building/construction sites, heavy engineering, biological plants, slaughterhouses	Up to five employees	At least one responsible person
	Between five and 50	At least one first aider
	More than 50	At least one additional first aider for every 50 employed

The first aid box

All first aid containers must be identified by a white cross on a green background. You need to assess the level of health and safety risks your workers face as it is impossible to be definitive about what your first aid box should contain. For a business where there is no heightened level of

risk to its workforce, here is a list of items that may be regarded as a minimum requirement:

- A first aid guidance leaflet
- Two pairs of disposable gloves
- Four sterile eye pads
- Six to eight safety pins (various sizes)
- Four sterile bandages (triangle shaped)
- Five large individually wrapped sterile wound dressings
- 20 individually wrapped sterile adhesive dressings (various sizes)
- Two 5cm 5 5cm bandages
- Two 2.5cm 5 5cm bandages
- Ten absorbent cotton wool balls
- One zinc oxide plaster (for securing dressings)
- 15 multi-stretch plasters (various sizes)
- Pack of antiseptic wipes
- Tube of antiseptic cream
- One pair of small scissors

You should not keep tablets or medicines in the first aid box. If you use dangerous plant machinery, toxic chemicals or hazardous substances (e.g. cleaning solvents), you may require different items to be contained in your first aid kit.

In addition, you should consider whether different areas of the business premises pose a different risk to others, for example:

- How spread out are the premises?
- Are there several buildings?
- Is there more than one floor and, if so, do you need separate medical facilities on each?

Finally, if you employ people with special needs or disabilities you must consider whether these needs are catered for.

The accident book

All employees should be informed where the company's accident book is located. This could be at reception or, in larger organisations, in the first aider's room.

There are various accident record books on the market or you could maintain the record in a computer file. However you choose to document accidents, certain specific information is required:

- **Personal details:** name, age, status, job title
- **Injury details:** nature of accident and injury/disease
- **When the accident occurred:** date, time, place

The health and safety policy document

If you employ five or more employees, you must have a written health and safety policy and bring it to the attention of your employees.

According to section 2(3) of the Health and Safety at Work Act, the policy should:

- set out the employer's general policy with respect to health and safety;
- describe the organisation and arrangements for carrying out that policy;
- be reviewed as often as appropriate (e.g. annually).

Having your own policy statement is very important. Health and safety inspectors often ask to see the policy statement during inspection visits. A policy statement demonstrates that a business is committed to planning and managing health and safety. Before finalising your policy statement, it is a good idea to consult your workers. This helps to ensure that all the necessary systems and procedures are in place. It should be clear from your statement who is responsible for the different areas of the health and safety requirements. Do remember that after this policy has been written, discussed and agreed with the workers, it should be implemented!

Preparing a health and safety policy document

Often business owners find it difficult to formulate and document their policy. The following guidance therefore may be helpful in providing a template for the small business owner.

It should be in written form and signed and dated by the owner, occupier or person having control of the business.

Depending on the type of business, the policy statement can have up to 11 different sections. We will cover all of them and leave it to you to select those appropriate to your business.

Part 1: A general statement of intent

Here you describe in broad terms your company's philosophy in relation to health and safety. You need to include a statement saying that you will provide adequate consultation with your employees and ensure the prevention of accidents and work-related ill-health, the safe handling of toxic substances and the maintenance of safe plant machinery. In addition, you need to state that you will review and revise your policy as necessary, particularly as the business changes in nature and size. This part should be signed and dated.

Part 2: Organisation

This part deals with people and their duties. Here you should list four areas of responsibility. Firstly, as the business owner, you have overall responsibility for health and safety. Your name goes first. Secondly, you should appoint an employee who is responsible for the day-to-day implementation of the policy. Thirdly, there may be instances where different people have different specific areas of responsibility for ensuring that health and safety standards are maintained. These people could make up a health and safety committee who meet regularly (e.g. quarterly) for the purpose of reviewing health and safety procedures and making policy decisions. These people should be named here. Finally, it should be stated that 'all employees have a duty to take reasonable care of their own health and safety and that of others who may be affected by their acts or

omissions and to co-operate with their employer, so far as is reasonably necessary, to ensure compliance with the related statutory requirements’.

Part 3: Health and safety risks arising from workplace activities

Here you will document those responsible for assessing the risks in the workplace (see section 4 in this chapter). You will need to note down the person undertaking the risk assessment, to whom the results will be reported and those responsible for any action that needs to be taken. The actual risk assessments can be attached and you will also want to include a period of time when assessments will be reviewed.

Part 4: Consultation with employees

Even if you do not have a trade union, you must still consult your employees. If this is undertaken through a nominated representative, their name needs to be documented here. If you have a union, you must consult them.

Part 5: Safe plant and equipment

This part is used to identify all the plant machinery that you possess and the people responsible for its maintenance. You should list who is responsible for identifying when maintenance is needed, who draws up the maintenance procedures, who to report problems to and who purchases new equipment. A maintenance logbook is recommended. Don't forget simple tasks such as the routine inspection of plugs and cables for loose connections and faults. It should be stated that under no circumstances must an unqualified member of staff attempt any electrical repair or maintenance.

Part 6: Safe handling and use of substances

If you use any type of hazardous substances (e.g. photocopying toner, Tippex, thinners, bleach, etc), these need to be identified here and the

special risks to health assessed. Whoever identifies the hazards and is responsible for the detailed assessment which is required under the Control of Substances Hazardous to Health Regulations 2002 (COSHH) must be noted (chapter 3, section 5 deals with this area in detail).

Also list the assessment review period and the names of others who are involved in the implementation of COSHH.

Part 7: Display safety information

All business premises must display the health and safety law poster (see page 14). Here you can document where it is displayed, along with details of where the employee health and safety information is kept.

Part 8: Job training/induction/advice and consultancy

All new employees need to be given a comprehensive health and safety induction programme and the person responsible for this training should be included here. Training new personnel in tasks specific to their jobs is also important and those workers responsible for this should be named. Training records should be kept and their whereabouts noted.

If any outside agencies are used to assist with health and safety advice and training, they should also be listed here.

Part 9: First aid/accident procedure/work-related ill-health

Document here where the first aid box(es) and equipment are stored, who the people responsible for administering first aid are, who keeps the records and, in the event of a serious accident, the person responsible for reporting to the enforcing authority what has happened.

All accidents at work should be recorded and kept in an accident record book. The location of the book should be noted here.

Part 10: Safe working practices

You should nominate an employee whose job it is to monitor and check regularly your safe working practices. They should also be responsible for investigating accidents and work-related sickness.

Investigating the reasons why accidents have occurred is a useful exercise that enables you to tighten procedures and hopefully prevent a recurrence. Descriptions of specific safe practices should be listed here, for example, the safe use of photocopiers, manual handling of heavy loads, the use of VDUs, etc.

Part 11: Emergency procedures: fire and evacuation

Regularly checking fire and emergency exits, escape routes and fire alarms is vital. Appoint a responsible person to carry out this procedure and name them. Put in specific dates/times when alarms, escape routes and fire extinguishers will be tested, along with the emergency evacuation procedures. There should also be random testing of the emergency evacuation procedures. Talk with your local fire service to get further guidance on your obligations. This issue is dealt with in more detail in section 3 of this chapter.

More specific guidance

This checklist is only a guide to what you should consider including in your company's health and safety policy document. It is by no means exhaustive and different company circumstances will determine what needs to be included and what can be safely excluded.

In order to help the small business with the preparation of its own policy, the HSE has produced an excellent health and safety publication which employers can use to comply with the law. It is free and is called *An introduction to health and safety* (INDG259 [rev 1]). You can download the document www.hse.gov.uk/pubns/indg259.pdf, or call 01787 881165.

2.3 Emergency procedures

The Management of Health and Safety at Work Regulations 1999 require employers to establish ‘procedures for serious and imminent danger and for danger areas’. The risk assessments required under the regulations (dealt with in detail in the next section) should identify any significant risks which arise out of the specific workplace. These may include, for example, the potential for a major escalating fire, explosion, building collapse, pollution incident and/or bomb threat.

Fundamentally, the question must be asked, ‘What are the worst possible types of incident that could arise from the work undertaken in my workplace?’ Once these major risks which may result in serious and or imminent danger have been identified, a formal emergency procedure or plan must be produced.

The procedures should set out the role, identity and responsibilities of the competent persons nominated to implement the action. These procedures should normally be written down, clearly setting out the limits of action to be taken by all employees. In particular, work should not be resumed after an emergency if serious danger remains. You should always consult the emergency authorities if in doubt.

In shared workplaces, separate emergency procedures should take account of others in the workplace and should, as far as is appropriate, be co-ordinated.

Fire prevention

Every year, losses to business through fire are substantial. In order to prevent death and human injury, damage to property and the consequent losses, it is essential that all your workers are familiar with the causes of fire, the fire protection procedures and the dangers associated with flammable substances. Specific training should be given on this important subject and specific information can be obtained from various external agencies. (See the Appendices for suggestions.) Training can include watching videos which can quickly and easily show employees how to cope in an emergency.

Fire appliances


Different fire appliances should be used depending on the type of fire to be tackled. For example, to douse solid materials, usually organic with glowing embers, the appropriate extinguishers are water, foam, dry powder, vaporising liquid or carbon dioxide. For liquid fires, miscible (i.e. which can be mixed) with water, the appropriate extinguishers are water, foam, carbon dioxide and/or dry powder. For liquid immiscible with water, use foam, dry powder, carbon dioxide or vaporising liquid. Fire appliances introduced before 1 January 1997 are colour coded as follows:




Extinguisher	Colour code
Water	Red
Foam	Cream
Carbon dioxide	Black
Dry chemical powder	Blue
Vaporising liquid	Green

Since 1 January 1997, all fire extinguishers are (rather unhelpfully) painted red. This is due to a European Directive.

Existing extinguishers do not have to be replaced until they reach the end of their useful life. The company responsible for the maintenance of the extinguishers should make sure that, whenever possible, the two standards are not mixed to avoid confusion.

To ease the transition, British Standards allows for a coloured band at the top of the extinguisher. This is only a recommendation and throughout the UK individual manufacturers have confused matters further by colour coding in different ways! The new extinguishers have icons, indicating what type of fire they can be used on, as follows:

Classification of fire	Typical fuel	Classification icon
Class A Carbonaceous fires	<ul style="list-style-type: none"> • Wood • Paper • Cloth • Plastic • Rubber 	

Classification of fire	Typical fuel	Classification icon
Class B Liquid fires	<ul style="list-style-type: none"> • Paraffin • Petrol • Types of adhesives • Types of paint • Types of spirit • Thinners 	
Class C Gas fires	<ul style="list-style-type: none"> • Domestic gas • Butane • Acetylene • Methane 	
Fires involving electricity (not a class)	Equipment: <ul style="list-style-type: none"> • Electric heaters • Office equipment • Electric switchboards • Electric motors • Televisions • Photocopiers • Electrically operated equipment 	

Classification of fire	Extinguisher			
	Water	Carbon dioxide	Powder	Foam
A – Carbonaceous fires	Yes	Yes	Yes	Yes
B – Liquid fires	No	Yes	Yes	Yes
C – Gas fires	No	No	Yes	No
Fires involving electricity	No	Yes	Yes	No

Legal requirements

New fire safety legislation, the Regulatory Reform (Fire Safety) Order 2005, came into force on 1 October 2006 (in England and Wales). The regulations state that you must carry out a fire safety risk assessment. Under the new regulations there is no separate certification system for higher risk premises and fire certificates are no longer valid.

A fire risk assessment must be carried out. You must consider all of your employees and all other people who may be affected by a fire in the workplace. You are required to make detailed provision for any disabled people, or people with special needs, who use, or may be present on, your premises (see the following page for more information on risk assessments. However, these must be recorded if you employ more than five people). The risk assessment will help you decide the nature and extent of the fire precautions that you need to provide. You must also consider:

- A means of escape in the case of fire (this excludes lifts, escalators and revolving doors). There are specific requirements as to the travel distance between any point in a building and the exit and the number of exits necessary. Specific guidance should be sought from the fire authority.
- Fire instructions must be clearly displayed, advising occupants of what action they must take on hearing the fire alarm or discovering a fire. The instructions must be displayed at prominent points in the building.
- Fire drills should result in a total evacuation of the building and should take place at least annually. Fire wardens or other designated people should take a head count on evacuation. Assembly points should be clearly identified and all persons, including visitors, should be made aware of their specific assembly point.
- The fire alarm should be sounded weekly so that all occupants of the premises are familiar with its sound.
- You must establish a suitable means of contacting the emergency services and ensure that they can be called easily.

Criminal breaches of the Regulatory Reform (Fire Safety) Order 2005 are punishable by a fine, or by a fine and imprisonment. Anyone who fails, intentionally or recklessly, to comply with the regulations and puts their employees at serious risk commits a criminal offence.

To sum up, staff should receive regular instruction in the selection and correct use of fire appliances. However, the first priority must always be to evacuate a building in the event of a fire.

A series of guides are available. You can email the government's fire safety team at fire.safetyreform@communities.gsi.gov.uk.

2.4 Risk assessments

As previously mentioned in chapter 1, you are under a legal obligation as an employer to ensure that the premises, systems of work and equipment do not pose a risk to your employees. This is dealt with in full in the Management of Health and Safety at Work Regulations 1999.

The law requires that employers ensure their employees' safety by initially undertaking a risk assessment. Do not be alarmed by the term 'risk assessment'. It is all about common sense and doing the things described in this section.

All employers are legally required to assess the risks in the workplace. If you have more than five employees, you are legally required to keep a written record of the risk assessment.

But what exactly is a risk assessment, what does it entail and what is the best way for a small business owner to go about meeting his obligations when there may be limited time and money?

What are they?

Risk

A risk is a chance, be it high or low, that someone may be harmed by a hazard. A risk assessment is a careful examination of what could cause harm to people in a particular workplace.

Hazard

A hazard means anything that can cause harm, for example, working at height or with chemicals.

Assessment

It needs to be decided whether a hazard is significant and whether it has been covered by satisfactory precautions so that the risk is greatly reduced. If it has not, it needs to be decided what precautions should be taken.

What do they entail?

In drawing up an initial outline assessment, the guiding principle is to keep things simple. In an office or commercial operation, there should not be many dangerous items or situations. It is just a combination of observation and common sense.

It is the small, often overlooked, hazards which you probably need to concentrate on. If you are a reputable employer, you will already have ensured that potentially harmful machinery is correctly guarded and your workforce has the necessary protective clothing (e.g. boots, gloves, eye protection, etc). Instead, you may have to look at the low beam at the entrance to your building or the steep inside staircase that you need to make people aware of. Taking the correct precautions may simply mean a well-placed sign. See section 9 for example signs.

If yours is a small business, then an assessment can be undertaken within the business. A larger company may wish to ask a safety representative or safety officer to assist. You could employ a private company to undertake the risk assessment on your behalf. Insurance companies will also carry out surveys to make sure that the companies they insure are up to standard. Small businesses should not view these as potential problems but effectively as free advice which can help improve things without running up professional fees.

But remember, the employer is ultimately responsible for ensuring that the risk assessment is adequately undertaken.

How to undertake an effective risk assessment

In order to assess the risks in the workplace, the following process should be undertaken.

Stage 1: Look for hazards

Spend time, ideally with a colleague, walking around your workplace with a critical eye. Think about what could go wrong at each stage of what you do. Identify and document all areas that you think may be hazardous and

the type of hazards involved. If your workplace is an office, then your list will probably be short; if your workplace is a factory, it will be considerably longer. List everything, including the low beam at your entrance or the awkward staircase.

Discuss with your workforce any concerns they have and, if legitimate, add them to the list. Do not forget your own experience. Have you had any accidents? If so, document them.

Whilst it is important to document every potential hazard, you should concentrate on the ones that are significant and avoid those that are trifling. Check your accident record book to see if there are any types of injuries or accidents that recur regularly.

Stage 2: Assess who may be harmed and how

If it is the low beam outside your building, then everyone who enters is at risk. Not only are your employees in danger of hurting themselves but your visitors are also. You would not want the embarrassment of an important customer being injured whilst visiting you. New employees, who are unfamiliar with your office/shop floor/warehouse layout, will need particular attention. Likewise any person doing work experience, temporary staff or those with special needs.

Stage 3: Consider the risk and decide whether the precautions in place are adequate or whether more could be done in taking action

Ask yourself:

1. Can I get rid of the hazard altogether?
2. If not, how can I control the risk so that harm is unlikely?

Think about the following:

1. What is the worst result? For example, is it a cut finger, suffering from asbestosis or a death?

2. How likely is it to happen?
3. How many people would be affected if things did go wrong?

You should now know what the main risks in your workplace are. However, do refer to chapter 3, which covers specific risks, just to make sure that you have covered all eventualities.

If you discover a potential hazard that may endanger someone's safety and you regard it as significant, you then need to decide how best to reduce the risk. Ideally, you should eliminate the risk altogether by getting rid of the hazard but often the situation is not as clear-cut as this.

For the most part, the law requires you to do all that is reasonably practicable to ensure your place of work is safe. At the very least, you need to do everything necessary to meet the legal safety requirements and industry safety standards. If you cannot eliminate the hazard, look at ways of controlling it, for example, a non-slip mat on slippery entrance steps. Again, refer to chapter 3 on specific risks which may help you to take the correct precautions.

There may be occasions where your office is in a building occupied by other business tenants. If this is the case, then you should consult with them on any hazards that affect everyone. For example, fire escapes, reception areas, washing/toilet facilities may be areas of joint responsibility. Also, you should discuss any concerns with your landlord where the hazard relates specifically to the building and any contents that fall under the tenancy agreement.

In many instances it will be difficult to eliminate the risk and in implementing controls your main aim will be to make the risk as small as possible.

Stage 4: Document your findings

If you employ five or more people you must record the significant findings of your assessment.

You need to cover:

- the areas you have investigated;

2.5 Insurance provisions

Most employers are required by law to insure against liability for personal injury or disease to their employees arising out of their employment. Recognised psychiatric or mental illness falls within the scope of personal injury. The Employer's Liability (Compulsory Insurance) Act 1969 provides that each employer should have at least a minimum level of insurance cover (£5,000,000) against any such claims. The Act does not grant an employee an automatic right to compensation. The purpose of the Act is to ensure that when an employee is successful in a civil claim, the employer can, through his insurer, pay the compensation that is due.

It is a legal requirement that a copy of the insurance certificate is displayed where your employees can easily read it.

You should be aware that people who are normally thought of as self-employed may be considered employees for the purpose of employer's liability insurance. Whether insurance is required will depend upon the terms of the contract with the person. A contract may be spoken, written or implied and there are no hard and fast rules as to who counts as an employee. However, in general you may need employer's liability insurance for someone for whom you:

- deduct National Insurance and income tax from the money you pay them;
- control where and when they work and how they do it;
- supply the majority of materials and equipment;
- possibly share your profits, either through commission, performance pay or shares.

In general, you may not need employer's liability insurance for people who work for you if they:

- do not work exclusively for you (i.e. they work as an independent contractor);
- supply most of the materials and equipment;
- are clearly in business for their own personal benefit.

To sum up, an employer needs employer's liability insurance unless they have people working for them who are not considered 'employees' or who are exempt.

Exempt employees are very restricted but can include those in a family business (i.e. if your employers are closely related to you (as husband, wife, father, mother, grandfather, etc)). However, this exemption does not apply to family businesses which are incorporated as limited companies.

If you are in any doubt as to what is required, you should seek legal advice or consult an insurance broker. You can get a list of authorised insurers via the internet at the Financial Service Authority's website (www.fsa.gov.uk) or by telephoning them on 0845 606 1234 – see the Appendices for their contact details.

Every business must retain copies of its out-of-date insurance policies for 40 years. This does seem like a very long period of time but it is necessary because the insurance covers diseases, not just accidents, which may take many years to manifest, for example, mesothelioma (see the Appendices for a list of possible work-related diseases). You can keep copies electronically, if more convenient, but they must be available to health and safety inspectors when requested.

There are considerable fines for businesses which attempt to avoid their responsibility for providing health and safety insurance cover for their workforce. The courts do take a particularly dim view of companies without insurance and fines of up to £2,500 per day can be imposed. Even if you simply fail to display your insurance certificate, you may find yourself having to pay a £1,000 penalty.

Your obligations to the insurance company

Your insurance policy is an agreement between you and your insurer concerning the circumstances in which they will pay compensation. However, your insurer cannot refuse to pay compensation to a claimant because you:

- have not provided reasonable protection for your employees against injury or disease or failed to meet a legal requirement;
- are unable to provide particular information to your insurers;

- have done something, or not done something, contrary to their instruction.

However, the policy may enable the insurer to sue you to reclaim the cost of the compensation if you do not co-operate or if you behave unreasonably. It is important to notify your insurer very promptly in the case of any accident at work, a potential claim or if the HSE notify you of a potential prosecution.

Employees abroad

Employer's liability insurance is not required to cover employees who are based abroad. However, do check the law in the country where they are based and find out if it requires you to take out insurance or carry out any other measures to protect your employees.

If any employee is normally based abroad but spends more than 14 days continuously in Great Britain or more than seven days on an offshore installation, then employer's liability insurance will be required under English law.

Other insurance policies

Any injuries or illnesses relating to motor accidents, which occur whilst your employees are working for you, may be covered separately by motor insurance. Public liability insurance covers employers for claims made by members of the public, but not for claims made by your employees. See chapter 4, section 1 for details of your obligations to report an accident to your insurer.

2.6 Recruitment and training

Your workforce is arguably the most important asset of your business. It is important to identify areas of work which place particular physical or mental demands on people. Where these demands cannot be reduced, it is important to select the right people to meet the demands. For some jobs

the law requires medical examinations (e.g. for driving HGVs) but pre-employment checks are not legally required for most jobs.

The Management of Health and Safety at Work Regulations 1999 say that you have to provide health and safety training for people when they start work, when their work or responsibilities change and/or periodically if their skills are not used regularly. You should bear in mind that people returning after illness may also need help readjusting to their job. Training must be provided during working hours and not at the expense of those working for you.

When someone starts work, they will need some form of induction training. They need to know the company's safety policy and the arrangements you have made to deal with health and safety matters. Think about the needs of young and inexperienced recruits who will need a more detailed induction and be aware of special needs, such as language differences. Many of the other regulations, for example, the Provision and Use of Work Equipment Regulations 1998 (PUWER) require that you train your staff.

You should also be aware of the Disability Discrimination Act 1995. It applies to employers with 15 or more employees. The Act makes it unlawful to discriminate against a disabled employee or job applicant by:

- treating him less favourably (without justification) than other employees or job applicants because of his disability; or
- not making reasonable adjustments (without justification).

We deal with this issue further in section 10 but we also suggest you either obtain a full copy of the Act from the Stationery Office (see the Appendices for details) or go onto the government's website at www.disability.gov.uk which provides some useful guidance.

Approaches to training

'Sitting by Nellie' (i.e. learning from an experienced person on the job) can be a very effective means of training. However, it does depend on how good 'Nellie' is at passing on her skills. Nellie may also need some training on how to train!

Other forms of training include outside trainers who can be brought on site, distance learning via videotape or computer-based learning. Consider whether there are any standards of competence for what you do, for example, NVQs.

Once training has been given it is a good idea to document who has given what training, when and to whom. Training should be repeated periodically where appropriate and adapted to take into account new or changed risks.

2.7 Health surveillance

More people die from work-related diseases than from workplace accidents. The Management of Health and Safety at Work Regulations 1999 and the Control of Substances Hazardous to Health Regulations 2002 (COSHH) require health surveillance in special cases. Some jobs that require surveillance include commercial diving, work with asbestos insulation and work with chemicals. Special conditions also apply to some people, such as pregnant women, whose jobs may expose them to lead or ionising radiation.

Health surveillance means having a system to assess early signs of ill-health caused by substances and other hazards at work. It includes keeping records, organising medical examinations and testing blood and urine samples. If there are known health risks from the work you undertake, or you are in doubt, take specialist advice.

2.8 Personal protective equipment

Even when risks have been assessed, and controlled and safe systems of work have been applied, some risks will still remain. These could include a risk of injury to the head, for example, from falling materials; to the lungs, from breathing in contaminated air or asbestos fibres; and to the eyes, from splashes of corrosive liquid. In these circumstances, personal protective equipment (PPE) is required to reduce the risk of injury.

PPE should only be used as a last resort if there is no other way of removing the risk of injury. If PPE is still needed, it must be hygienic and otherwise free of risk to health, and provided free by the employer.

Legal requirements

The Personal Protective Equipment At Work Regulations 1992 (PPE) lay down the main requirements. However, there are special regulations which cover lead, asbestos, hazardous substances, noise and radiation. The Construction (Head Protection) Regulations 1989 also apply. (See chapter 3, section 14 on construction for the main provisions.)

Risk assessment

If you run a small corner shop or a lawyer's practice, you may not need to consider protective clothing in any detail. However, in areas of manufacturing, construction, warehousing and distribution, there will be a risk of injury to staff.

Look for hazards

Consider:

- Who is exposed and to what?
- For how long?
- To what extent?

Reduce the risk of injury

Factors such as comfort, choice of equipment involved, ease of movement, ease of putting the item on and removing it, the effects of high temperatures and maintenance of parts are significant factors when considering the use of PPE as a means of protecting workers from hazards.

You should always take account of the health of the person who must wear the PPE. A high level of supervision and control is necessary to ensure constant use of the equipment. The employer should organise, where appropriate and at suitable intervals, demonstrations in the wearing of the PPE. Specific areas which can be protected include the following:

- **Eyes:** there may be hazards from chemical splashes, dust, gas and vapour, bright lights or radiation. Consider whether spectacles, goggles, face screens and/or helmets are necessary. Ensure that eye protection is the appropriate protection for the task. Ensure that a good quality product is bought and that the equipment suits the wearer in terms of size, fit, comfort and weight. Make sure that if more than one item of PPE is being worn, they can be used together. For example, a respirator may not give proper protection if the user is wearing safety glasses.
- **Head and neck:** beware of impact from falling or flying objects. There may also be a risk of hair entanglement or chemical drips and risks from climate or temperature (e.g. burns or frostbite). Consider helmets, hairnets, sou'westers and cape hoods. Neck protection may also be necessary, for example, during welding.
- **Ears:** refer to chapter 3, section 9 on noise. Consider earplugs or ear defenders. Only specially designed ear defenders should be fitted over safety helmets.
- **Hands and arms:** there may be a risk of cuts, punctures, chemicals, extremes of temperature, skin irritation or vibration to name a few. Consider gloves, gauntlets, mitts, wrist cuffs or armllets. Products are continually developing and you may wish to check with manufacturers on a regular basis as to whether you are using the most appropriate protection currently available. In a civil claim, where lack of PPE is alleged, you will be judged according to the types of equipment available at the time of the accident. You will also need to weigh up the risks from overheating as a result of wearing hand and arm protection (i.e. this may cause drowsiness) against the risks which are outlined above.
- **Feet and legs:** there may be a risk of slips, cuts and punctures, falling objects and chemical splashes. Consider shoes with steel toecaps, gaiters, leggings and safety boots. You will need to consider the appropriate sole pattern for the particular floor surface in your workplace.
- **Lungs:** there may be a risk from dusts, gasses and vapours. Various respirators and masks are available and specialist advice should be sought as to the most appropriate. Also consider the risks from overheating. All equipment should be suitable for its purpose and meet the necessary standards.

- **Whole body:** there may be a risk of extreme temperature, chemical splashes or clothing becoming entangled. The choice of materials for full body protection will depend upon the job in hand. Also consider other protection, for example, safety harnesses or life jackets. The HSE is currently focusing on work-related skin disease.

As an accident prevention strategy, the use of protective equipment relies heavily on the worker wearing the item of PPE during the whole period of time they are being exposed to the hazard. Therefore, once PPE has been provided to your employees, you should ensure that it is being worn correctly. Safety signs can be a useful reminder (see below).

2.9 Signs

Where a risk has been identified and it cannot be eliminated, it may be appropriate to fit a sign in an appropriate place. The Health and Safety (Safety Signs and Signals) Regulations 1996 encourage standardisation of safety signs throughout the member states of the European Union so that signs, wherever they are seen, have the same meaning. The sign should be maintained in good condition and kept up to date. Some signs are not immediately self-explanatory and training or instruction should be given. The law requires an employer to:

- use road traffic signs within the workplace to regulate road traffic where necessary;
- maintain safety signs which are provided by him;
- explain unfamiliar signs to employees.

Examples of the most commonly used signs appear below:



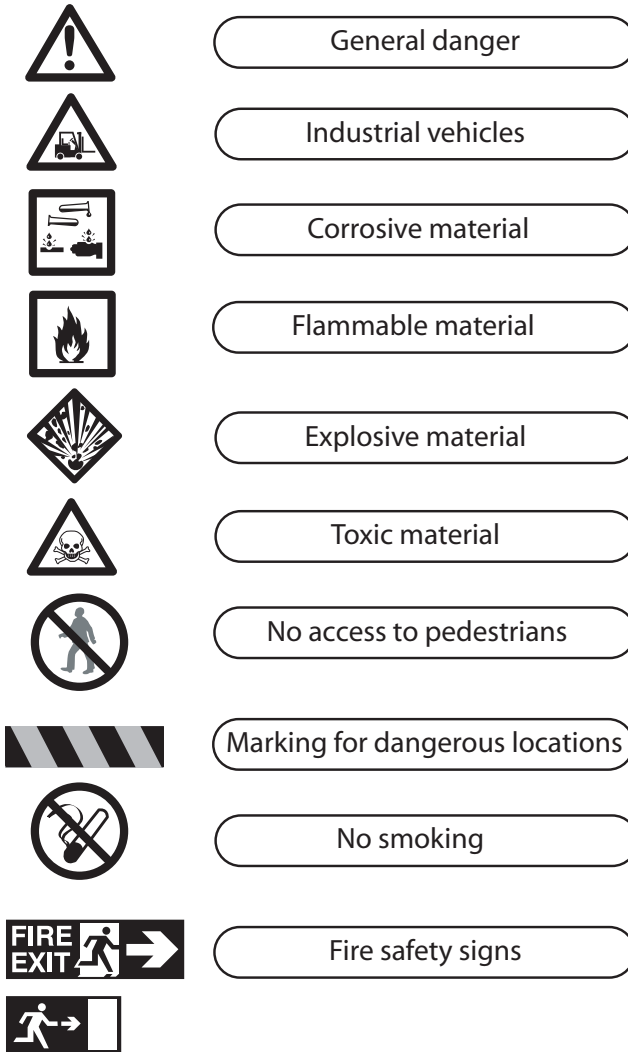
Safety helmets must be worn



Eye protection must be worn



Ear protection must be worn



2.10 Special groups of workers/the Disability Discrimination Act

Protection of young persons

- Do not employ children under school leaving age in an industrial undertaking, except on authorised work experience schemes.

- Every employer shall ensure that young persons employed by him are protected at work from any risks that are a consequence of their lack of experience or absence of awareness due to the fact that they have not fully matured. A separate risk assessment should be undertaken.
- No employer shall employ a young person for work:
 - which is beyond his physical or psychological capacity;
 - involving harmful exposure to toxic or carcinogenic agents;
 - involving harmful exposure to radiation;
 - where there is a risk to health from extreme cold, heat, noise or vibration.

The Disability Discrimination Act 1995

The Disability Discrimination Act (DDA) aims to end the discrimination which many disabled people face. This Act gives disabled people rights in the following areas:

- Employment
- Access to goods, facilities and services
- Buying or renting land or property (regarding access primarily)

The Act defines a disabled person as someone with a ‘physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities’.

You may need more information on who is likely to be covered by this Act. Statutory guidance exists which gives more background information on matters to be taken into account in determining questions relating to the definition of disability. A print copy of the guidance can be purchased from the Stationery Office (see the Appendices for their contact details).

The Disability Discrimination Act – employment provisions

- The employment provisions apply to employers with 15 or more

employees. As stated the provisions, including those that require employers to consider making changes to the physical features of the premises that they occupy, have been in force since December 1996.

- There are two ways in which an employer may unlawfully discriminate against a disabled employee or job applicant:
 - by treating him less favourably (without justification) than other employees or job applicants because of his disability; or
 - by not making reasonable adjustments (without justification).

A code of practice – ‘Elimination of discrimination in the field of employment against disabled persons or persons who have had a disability’ – describes and gives general guidance on the main employment provisions of the Act. A print copy of this code of practice can be purchased from the Stationery Office.

The Disability Discrimination Act – access to goods and services

- Since October 1999, companies that provide services have had to consider making reasonable adjustments to the way they deliver their services so that disabled people can use them.
- Since October 2004, service providers have had to consider making permanent physical adjustments to their premises if it would otherwise be unreasonably difficult for disabled people to use their services.

Under the Workplace (Health, Safety and Welfare) Regulations 1992, recent amendments state that adequate seating must be provided in rest areas for the number of disabled persons at work. In addition, all parts of a workplace used or occupied directly by disabled persons at work must be organised to take into account their needs.

The Disability Rights Commission and the Disability Unit at the Department for Work and Pensions (see the Appendices for their contact details), through their helpline and website, provide information and advice both to disabled people on their rights and to service providers on their duties under the DDA.

2.11 New or expectant mothers

In many workplaces there are hazards which may affect the health and safety of new and expectant mothers, and that of their children. There are specific laws which require employers to protect the health and safety of these employees.

Legal requirements

The Management of Health and Safety at Work Regulations 1999 apply, as does the Sex Discrimination Act 1975. If an employer fails to protect the health and safety of their pregnant workers, it is automatically considered to be sex discrimination.

Risk assessment

The employer is required to conduct a risk assessment for his employees which should also include any specific risks to females of childbearing age who **could** become pregnant and any risks to new and expectant mothers. New mothers include those who have given birth within the previous six months or who are breast-feeding.

Look for hazards

Your employees must inform you that they are pregnant or breast-feeding. Until you have received written notification, you are not obliged to take any action other than those resulting from the risk assessment for all employees, mentioned above.

Once you have received notification, consider whether the employee may be at risk from different physical, biological and chemical agents, working conditions and processes.

Some of the more common risks may be as follows:

- The lifting or carrying of heavy loads.

- Standing or sitting for long periods of time.
- Exposure to infectious diseases, lead, radioactive material and smoke in the workplace.
- Work-related stress.
- Workstations and posture, as well as long working hours.
- Excessive noise.

Consider whether it is possible to remove or reduce the risk. For example, can the working conditions or hours of work be adjusted, or can the employee be given suitable alternative work on the same terms and conditions?

As an employer you will need to regularly monitor and review any assessment made to take into account the possible risks which may occur at the different stages of pregnancy. If it is not possible to reduce or eliminate the risk, then an employer must suspend an employee from work on paid leave for as long as is necessary to protect the health and safety of the employee and/or her child.

2.12 Working time

Working time is the time spent during your working hours which includes rest breaks. It is now controlled by legislation.

The Working Time Regulations 1998 impose obligations on employers in relation to the working time of workers over the minimum school-leaving age, including the provision of rest breaks and night work restrictions. The HSE and your local authority are the enforcing authorities.

The regulations apply to most (but not all) workers. For example, training doctors are excluded.

The regulations provide that:

- workers must not work for more than an average of 48 hours per seven-day week, calculated over a 17-week period;
- travelling to work is not included, unless travel is part of the job;

- workers can agree to work more than a 48-hour week but the agreement must be:
 - in writing;
 - in relation to a specified period or apply indefinitely;
 - terminable by the worker by seven days' notice given to the employer;
- the normal working hours of night workers must not exceed an average of eight hours in a 24-hour period. (There are, however, exceptions, e.g. surveillance or security workers.)

The first criminal prosecution under the Working Time Regulations took place in 2002 against a newsagents, for failing to limit an employee's hours to an average of 48 per week. The employee involved had worked up to 97 hours per week and was awarded £1,200 compensation. The company was fined £5,000 and ordered to pay £2,150 costs. These prosecutions will no doubt become more common.

See chapter 3, section 15 for information on tachographs and the legal restrictions for driving times and breaks.

2.13 Agency workers

Under the Conduct of Employment Agencies and Employment Businesses Regulations 2003, employment agencies and employment businesses have specific legal responsibilities to provide information to businesses who use their workers.

Agency workers can face particular problems because, for example, they may not be familiar with the business they are working in or its particular hazards.

If you provide agency workers, you should ensure that the user business has carried out a risk assessment and given you the findings which you should pass on to agency workers. You may need to assess the risks workers face in the user business workplace before you place workers with that business for the first time. You will most likely need to do this if you are providing workers for higher-risk industries, such as construction.

When a business uses agency workers both the business and the agency have a shared duty to protect their health and safety. Agency workers could be considered your employees for health and safety purposes, even if they are not for tax and National Insurance.

It is important for both the user business and the agency to clarify and agree at the start of a contract the practical arrangements for day-to-day supervision, direction and control of the work agency workers will be doing.

If agency workers are on your site, your risk assessment needs to take them into account. You need to take into account special problems they may face, for example, any language needs. You need to ensure that they understand the information and instructions they need to work safely and that they have had any necessary training. You need to agree with the agency any arrangements for providing necessary health surveillance, computer screen eyesight tests, maintaining or providing personal protective equipment and agree an arrangement for reporting relevant accidents to the enforcing authority.

For further guidance on the Conduct of Employment Agencies and Employment Businesses Regulations 2003 and for further information, go to www.berr.gov.uk/employment/employment-agencies/index.html.