

Greystone Associates Health & Safety Consultants

GUIDANCE TO YOUR LEGAL DUTIES (HEALTH & SAFETY)

Health & Safety Guidance



CONTENTS

Page 3	Introduction
Page 4 /5	Your Legal Duties
Page 6	Health & Safety at Work Act 1974
Page 7 /8	Safety Definitions
Page 9	Risk Assessment
Page 10	What Do You Know?
Page 11	Summary CDM & CHSW
Page 12/13	Self Assessment Checklist
Page 14/15	Current Regulations

INTRODUCTION

In the running of your business safety plays an important part.

We realise you may not have the resources to employ a full time safety advisor or attend long term costly, training sessions or courses.

We have found that many clients ask the same questions on the basics of their health and safety requirements.

This booklet has been produced to give you some answers to those questions, and direct you down the correct path to fulfilling your legal responsibilities.

If you would like information on any safety matters please contact us, your first safety consultation is completely free.

We run a number of courses relating to health and safety requirements and are registered with the CSCS /CITB for construction safety courses.

Please see the attached services leaflet for details.

Best regards from the team at Greystone Associates

YOUR LEGAL DUTIES

You have a general duty to care for your employees while they are at work, or while they carry out work on your behalf



You must ensure that the following are safe:

- Plant ,equipment & machinery.
- Means of getting around the workplace.
- The workplace and its environment.
- Means of using, transporting & storing chemicals.

You must have:

- Safe systems of work & safe working procedures.
- Proper/adequate supervision.
- Adequate safety policy.
- Regular maintenance systems.
- Monitoring & checking systems.

You must :

- Consult with the workforce about health & safety.
- Co-operate with other employers/contractors or occupiers on health & safety.
- Have available competent safety advice or how to obtain it.
- Carry out risk assessments under the relevant regulations.
- Give information instruction and training about the hazards of work to employees and others affected by the work.

REMEMBER!

THE HEALTH & SAFETY AT WORK ACT
IS A PIECE OF CRIMINAL LEGISLATION
AS ARE ALL REGULATIONS MADE
UNDER IT. THEREFORE, IT IS A
CRIMINAL OFFENCE TO NOT COMPLY.



Within the Construction industry Health & Safety is "policed" by the Health & Safety Executive. They have far reaching powers and these are summarised below:-

Right to enter any site or premises at any time

Penalties:

Magistrates Court

£500.00 for obstructing an inspector

£5000.00 for each breach of regulations

£20,000 failing to comply with notices

Crown Court - unlimited fines and up to two years in jail

2(1)	General duty of every employer to ensure, so far as is reasonably practicable, the health safety and welfare at work of all his employees.
2(2)	Provision and maintenance of plant, equipment & safe systems of work.
2(2)b	Arrangements for safe use, handling and storage of articles and substances.
2(2)c	Provision of information, instruction and training.
2(2)d	Maintenance of place of work in safe condition with safe access and egress.
2(2)e	Provision & maintenance of a safe working environment with adequate welfare facilities.
2(3)	Safety policy– including safety organisation, arrangements and procedures, commitment to safe working.
2(4)	Safety reps by recognised trades unions.
2(6)	Employer must consult with safety reps.
2(7)	Safety committees to be set up if required .
3	General duties of employers & self-employed to persons other than their employees.
4	Duties of persons concerned with premises to persons using the premises.
5	Duties of persons in control of premises not to release harmful emissions into the atmosphere.
6	Duties of manufacturers, designers, importers, relating to safety of articles & substances at work - ensure they are safe for intended use, and data supplied for end user.
9	Employer cannot charge for things done or provided for safety eg PPE, fire extinguishers.
37	Allows for personal prosecution of managers, company secretaries, or “controlling mind” of a company where it can be shown they are negligent.

SAFETY

REASONABLY PRACTICABLE

The Law Lords have ruled that this means balancing the risks of injury or ill health against the cost of eliminating those risks. Employers have to be able to show that they have balanced the risks versus the costs BEFORE any accident has occurred. It is no defence in court to say that you did not know what the risks were. The courts would rule that employers should have up to date knowledge of the risks that their employees are exposed to. It is also no defence to claim insufficient resources as the courts will say, if you are in business you should make sure you have sufficient money time and staff to run it safely

SAFE SYSTEM OF WORK;

It is the duty of all employers to provide a system of work that, as far as is reasonably practicable, safe and without risks to health.

“Safe System of Work” is not specifically defined in law but the following is favoured and recognised by the courts and HSE.

“a safe system of work takes proper account of the potential hazards to employees and possibly others. It provides a formal framework to ensure that all the steps necessary for safe working have been anticipated and implemented”.

It demands planning forethought and good management control, not just reliance on luck and the good sense of the employees. A full safe system requires proper planning and preparation, training and instruction of those involved and the suitable selection of tools, plant and equipment, adequate for the operations or tasks being undertaken.



SAFETY DEFINITIONS

HAZARD: Something with the potential to cause harm.

RISK :The likelihood of harm or accident arising from the hazard.

COMPETENT PERSON: Defined in law, both civil and criminal and is a specific requirement of certain regulations. Here are the qualities a competent person should have;

- 1) Relevant experience.
- 2) Suitable qualifications and training.
- 3) Knows the limits of competence and where and when to get further advice.

Examples of specific regulations requiring competent person:-

- a) Electricity at work Regs– any one working with electricity.
- b) Management Regs– person undertaking risk assessment.
- c) Manual Handling, PUWER and DSE require competent persons as operatives or risk assessors.

SAFETY INSPECTION: A scheduled inspection of the workplace may be carried out by staff or external adviser accompanied by an employee responsible for H & S. May be unnotified inspection by HSE as routine or after complaint or accident. It should check maintenance and other records, working practices. Also if work is carried out to procedures. May not be as structured as an audit or survey.

RISK ASSESSMENT

The Management Regulations 1999 place an **ABSOLUTE** duty on employers to carry out suitable and sufficient risk assessments of and in their workplace.

The regulations apply to all risks where-

- 1) The employees whilst at work.
- 2) Persons not in their employ, affected by the work being done.

The definition of suitable and sufficient means you must:-

- A) Identify the significant risks.
- B) Identify the hazards present and their level of risk, including the workplace layout.
- C) Enable prioritisation of measures needed to comply with the regulations.
- D) Be adequate for the nature of operations and remain valid for the duration.

The RISK ASSESSMENT should:- cover all relevant hazards, be systematic and address real time events, not what should happen. Take account of all persons who may be affected, including visitors, cleaners, deliveries.

Particular attention should be paid to young, inexperienced and/or disabled persons.

A GENERIC risk assessment may be made before works begin or for several sites, these should be altered when site specific needs arise, and/or as work progresses or changes.

WHAT DO YOU KNOW ?

- 1) More than 50% of all deaths of construction workers occurred on sites where no more than people worked on the site.
- 2)% of deaths were on sites of less than six weeks duration.
- 3) Those in charge of work were considered to be wholly or partly to blame in% of deaths.
- 4) The number of construction workers estimated to contract dermatitis is

TRUE OR FALSE

- 1) Painted ladders should not be used on site
- 2) Cement is the most common cause of dermatitis with construction staff.
- 3) Deafness caused by regular exposure to noisy equipment or work can be cured by an operation or hearing aid.....
- 4) Excavations should be inspected once a week

(answers on page 15)



SUMMARY OF CDM & CHSW REGULATIONS

Construction Design Management Regulations 1994

The CDM Regs place a duty on Clients, Designers (architects/ structural engineers, etc) and Principle Contractors to ensure that all new building and major refurbishment projects are designed planned, altered, demolished, renovated and maintenance planned with safety in mind.

ALL projects lasting over 30 calendar days, 500 man days, with **ANY** demolition, of over 4 person on site are covered by CDM.

If you are involved with this type of project you **MUST** understand your role. It begins with the client who must ensure that all persons used in the project are competent, not only in their trade but with health & safety issues that affect the works.

It involves collating pre tender safety information, a construction phase safety plan and finally a safety file (project M.O.T) that remains with the building for its “life” span. NB: we can supply a course on CDM requirements for client, contractor or designers

Construction (Health Safety & Welfare) Regulations 1996.

The main duty holders under these regs are employers, self-employed and those who control the way in which construction work is carried out, it places a duty on anyone carrying out construction work to report any H & S defects to those in control and co-operate with others on matters of H & S.

The regulations cover:- the provision for working platforms, the prevention of falls, support of excavations, welfare requirements, emergency & fire precautions, transport routes, control and supervision, As a construction operative you should know these regs, **THEY ARE YOUR BIBLE.**

SAFETY POLICY	YES	NO
Company safety policy– is it written on more than one sheet of paper. When was it last reviewed?		
Is it signed by the MD?		
Does it describe individual duties?		
Does it say who the safety advisor is?		
Is there an arrangement/procedures section ?		
RISK ASSESSMENTS; What do you have?		
General work equipment under PUWER		
Manual Handling		
Working at heights		
Electricity		
Dust/Noise		
Protecting the Public		
All other tasks under the Management regulations		
FIRST AID		
Do you have continuous cover of qualified persons, are first aid kits available to all staff and appropriately stocked?		

MANAGEMENT OF HEALTH & SAFETY	YES	NO
Do you have arrangements for obtaining competent H & S advice?.		
Does any one inspect your workplace/site regularly and record the findings?		
Have you got emergency procedures ?		
Do you assess the competency of agency and sub-contract staff?		
Have you had a health and safety audit?		
TRAINING		
Has everyone in your employ (both direct and sub contract) had basic health & safety training?		
Have you an induction training system for new employees and for each new site?.		
Do you have a formal system of assessing training needs?		
ACCIDENTS/HAZARDS		
Have your staff a means of reporting accidents?		
Do you encourage staff to report dangers and Hazards?		
Do you support staff and investigate when they refuse to carry out tasks they believe dangerous?		
Do you investigate accidents and record your Findings?		

SOME CURRENT REGULATIONS

1992 & 2003	Control of Asbestos at Work Regs: sets maximum limits for asbestos particles in the air, requires licensed contractors for removal, notification and special waste disposal
1989	Electricity at Work Regs: updates previous legislation & now covers all workplaces. All wiring and electrical installations safe to use.
1989	Noise at Work Regs: requires employers to assess noise at work and reduce the risk of hearing damage
1989	Head Protection Regs : specifies that head protection MUST be worn when danger from falling objects
1991	Environmental Protection (Duty of Care) Regs: Covers the criteria for the disposal and storage of waste and its transportation.
1992 As amended 2004	Workplace (Health Safety & Welfare) Regs: sets minimum standard for ALL workplaces, to include temperature, access/egress/ space, lighting, welfare, ventilation etc Personal Protective Equipment Regs: out standards for protective equipment in the workplace. Manual Handling Regulations: requires assessment of risk for all lifting activities, whether one offs or repetitive Display Screen Equipment: requires assessment of all VDU workstations, and working practice.
1994	CDM Regs: lays down duties for personnel and safety within defined projects (see page 11) COSHH Regs: covers controls to substances hazardous to health

1995	Reporting of Injuries, Diseases & Dangerous Occurrences (RIDDOR): Lays down procedures for reporting certain accidents and incidents.
1996	Consultation with Employees: requires employers to consult with employees on matters of health & safety Construction (Health Safety & Welfare) Regs: adds to workplace regulations specifically for construction work
1997	Confined Space Regulations: defines a confined space , sets standards for safe working practice and systems. Fire Precautions (Workplace) Regulations: requires fire prevention assessments and procedures.
1998	Management of Health Safety & Welfare Regs: upgrades the 1992 regs, lays down standards to control and assess risks in the workplace. Lifting Operations & Lifting Equipment Regs (LOLER) sets standards for operations, equipment and maintenance of such, replaces section 27 of the factories act 1961(now superseded). Provision of Work Equipment Regs (PUWER) upgrades the 1992 regs sets standards for safety, guarding in equipment, also employees to ensure competency of equipment operators. Control of Lead at Work: sets standards for the use and using lead at work

If you think that these regulations apply to you (and they do if you work) please ask for advice on how to comply

Answers to “What do you know”

1) 10, 2) 30% 3) 70% 4) 25000.

True or False! 1) True– painting may hide defects

2) True– allergy to the chromate in cement is main cause.

3) False– it is irreversible, 4) False - before each shift



Greystone Associates Health & Safety Consultants

27 Mackie Avenue
Patcham
Brighton
BN1 8RA

Phone: 01273 505121/239136
Fax: 01273 505121
Mobile 07885 405231
Email: grey.stone@ntlworld.com

OTHER SOURCES OF INFORMATION

CITB TEL: 01553 776677
HSE East Grinstead: 01342 334200
HSE Books: 01787 881165