

Health and Safety Regulations

The main instruments through which health and safety requirements are laid down are Regulations, Approved Codes of Practice (ACOP) and Guidance Notes.

Regulations

Regulations under the 1974 Health and Safety at Work Act (HSW) are made technically by the Employment Minister. If any of the requirements imposed by regulations are broken, it is an offence under the 1974 Act.

ACOPs

Approved Codes of Practice (ACOPs) are issued by the Health and Safety Commission. They provide practical guidance on how to comply with legal requirements of the 1974 Act and related legislation. ACOPs are not legally enforceable, i.e. no-one can be prosecuted for not following the guidance laid down in them. However, if someone is being prosecuted for breach of the 1974 Act or related legislation, relevant ACOPs are admissible in evidence.

Guidance Notes

These are prepared by the HSE for the HSC after consultation with industry. They are not legally binding. However, guidance notes do provide authoritative advice. On a practical level the GPMU expects guidance notes to be implemented in workplaces, and generally speaking Inspectors will seek compliance from employers.

HSC

The 1974 HSW Act created the Health and Safety Commission (HSC) to draw up detailed Regs and ACOPs on specific health and safety matters.

The HSC is made up of a part-time chairperson and representatives from the TUC, CBI and local authorities. Its function is to; encourage and carry out research and training into all aspects of health and safety at work; provide an information and advisory service and put forward to government proposals on regulations under the 1974 Act.

HSE

The Health and Safety Executive (HSE) puts into practice the work of the HSC and enforces health and safety laws in factories. Health and Safety inspectors have powers to:

- enter premises;
- make investigations;
- interview individuals and take written statements
- take samples and photographs

- examine books and documents
- seize and destroy articles or substances that may cause serious personal injury.

They can issue Improvement Notices where there is a breach of the law. The Notice tells the employer what they must do to improve health, safety or welfare and gives them a period of time (with a minimum of 21 days) in which to do it.

Inspectors can also serve Prohibition Notices on a person controlling work activities wherever there is a risk of serious personal injury.

Inspectors also have the powers to prosecute. The maximum fine which applies for offences under Sections 2-6 of the Health and Safety at Work Act is £20,000 and applies to breaches of improvement notices, prohibition notices or cost remedy articles and can attract prison sentences of up to 6 months in a Magistrates court. Offences committed under other sections of the Health and Safety at Work Act or other relevant statutory provisions will be subject of a maximum fine of £5,000.

Conviction on indictment at a Crown Court can lead to an unlimited fine. In Scotland, where the offence has been tried under Solemn Procedure, the maximum fines are identical to those which apply in England and Wales.

Local authority Environmental Health Officers enforce health and safety law in certain classes of work activity, including premises used for retail sale, storage for retail or wholesale distribution, office activities and catering. Where individual premises have more than one activity, it is the main activity which determines the appropriate enforcing authority.

EMAS

The HSE's field staff also includes the Employment Medical Advisory Service, which is responsible for advising on safeguarding and improving the health of people at work. EMAS doctors have the same investigating powers as Health and Safety Inspectors.