

HEALTH AND SAFETY

1. The Health and Safety Executive

The Health and Safety Executive for Northern Ireland (HSENI) is the leading agency responsible for workplace health and safety in Northern Ireland. The Executive works hand in hand with the local councils to ensure adequate standards of health and safety in the workplace. HSENI administers health and safety legislation in areas such as manufacturing, construction, schools, hospitals, agriculture, etc. while the councils are responsible for offices, shops, hotels, catering, etc. Advice and support is available to employers at www.hseni.gov.uk/topic/small-business-advice

The Employment Medical Advisory Service (EMAS) is a statutory advisory body within the Health and Safety Executive for Northern Ireland (HSENI). It is staffed by a specialist doctor, nurse and support staff. EMAS gives advice on work related health matters to organisations and individuals including employers, employees, trade unions, regulators, health care professionals and others. It aims to prevent ill health caused by work and to promote good health in the workplace. If you are a Northern Ireland based company and you would like someone from EMAS to conduct a free and entirely confidential visit to advise you on matters pertaining to health and your workforce/workplace you may contact them for assistance.

2. Legal Obligations

Employers have a number of obligations in relation to health and safety at work. Under common law, the employer's duty is generally one of reasonable care. For example, employers have a duty to take reasonable care of the health and safety of staff. Failure to comply with health and safety responsibilities may lead to criminal proceedings and fines, irrespective of whether an individual worker is injured. In addition, individual directors and managers can be personally prosecuted and fined or even imprisoned as a result of offences committed by their company for breaches of statutory rules. A worker may also bring a civil claim for damages where he or she has suffered injury as a result of a breach of health and safety legislation.

Employers should also be aware of the principle of vicarious liability which means that an employer is liable for its employees' acts or omissions and may be held responsible if an employee injures someone in the course of their employment, even when the employer did not authorise the act that caused the injury.

Employers carrying on a business in the UK are also obliged to maintain insurance against liability for injury or disease sustained by employees in the course of their employment in the UK. Employers must make a copy of the Certificate of Insurance available to employees, e.g. via the internet or displaying a copy on the staff notice board.

3. Legislation

There are numerous pieces of health and safety related legislation, some applicable only to specific industries or types of business (e.g. construction). Some legislation applies to all employers, such as:

- The Health and Safety at Work (NI) Order 1978;
- The Management of Health and Safety at Work Regulations (NI) 2000;
- The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997 (RIDDOR).

The Health and Safety at Work (NI) Order 1978

This Order places a general duty on all employers to ensure, so far as is 'reasonably practicable', the health, safety and welfare of all employees. The main employer responsibilities are:

- To provide safe plant and systems of work;
- To provide adequate arrangements for the use, handling, storage and transport of articles and substances;
- To provide information, training and supervision on health and safety matters;
- To maintain a safe place of work and safe means of access and egress;
- To maintain a safe and healthy working environment;
- To protect others (i.e. the public), who may be affected by the way business is conducted;
- To prepare a written health and safety policy detailing the organisation and arrangements for implementation and to bring this policy to the attention of all employees. The health and safety policy should detail the responsibilities of key members of staff within the organisation and the health and safety procedures and standards that apply.

'Reasonably practicable' implies a balance of the seriousness of the risk against the cost and difficulty of overcoming it.

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The Order also imposes a duty on employers to consult with trade union appointed safety representatives or, where there is no trade union, representatives selected by the employees. This consultation is generally carried out through the formation of a Safety Committee. The employer may also choose, where there is no trade union, to consult with all employees directly. The law gives employees protection against dismissal or discipline because they have taken part in consultation. Some of the other requirements of the Order include:

- Employers must also undertake **risk assessments** on tasks performed by employees and put in place **adequate control measures** to prevent injury;
- Employers must provide **relevant health and safety training** for all employees;
- Employers must provide **personal protective equipment** (PPE) for employees performing hazardous tasks;
- Employers with **5 or more employees** must have a **written health and safety policy**.

Employees also have general duties placed on them by the Order:

- To take reasonable care for their own health and safety and of the health and safety of others who may be affected by their actions at work;
- To cooperate with their employer so far as is necessary in the implementation of measures to fulfil their employer's duties in compliance with health and safety legislation;
- Workers must not work in a dangerous way or refuse to wear or use appropriate protective equipment as this will amount to a breach of their statutory obligations, even if it is only their own safety that is affected.

The Management of Health and Safety at Work Regulations (NI) 2000

The Regulations require that employers assess the risks to the health and safety of workers and others who may be affected by the undertaking of work. A risk assessment involves finding out what in your workplace could cause harm to people and deciding if you have done enough, or need to do more, to protect them. The level of detail in a risk assessment should be broadly proportionate to the risk involved. Specific risk assessments must be made regarding pregnant women and children and young people. In addition, risk assessments are required in jobs involving manual handling, noise, work stations and display screen equipment under various statutory requirements.

The Regulations also require the employer to appoint a 'competent person' to assist them with their duties. This may be an employee or an external provider – the critical point is that they must be competent. When an internal employee is chosen for this role, adequate training must be provided.

Many of the duties contained in the Regulations overlap with other existing Regulations.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997 (RIDDOR)

Employers must record and report certain accidents and ill health situations at work. The Regulations not only apply to employees, but to members of the public and anyone who may suffer injury or death from an accident arising from or connected with work. These include:

- Death or major injury connected with work;
- Accidents where a person is incapacitated for more than 3 days;
- Dangerous occurrences;
- Disease.

Records should be kept of any reportable occurrence. The record should include the date, time and place of the event, the date and method of reporting, personal details of those involved and a brief description of the event.

Incidents must be reported to the authority responsible for your workplace (i.e. HSENI or your local council).

It is good practice for employers to operate an accident book to log details of all incidents whether or not they require reporting to the HSENI.

4. Information and Advice

HSENI offers an extensive range of services. These include:

- A comprehensive publications reference library;
- A video library;
- Internet access for health and safety information;
- A range of leaflets, publications and videos free of charge.

Further information on the management of health and safety at work (including forms) may be found on the following websites:

HSENI - www.hseni.gov.uk

NI Business Info - www.nibusinessinfo.co.uk

See the bibliography for more details.