

## An Overview Of An Employer's General Obligations

The Health and Safety at Work Act 1974 ('the Act') is a fundamentally important piece of law, which all employers should understand and strive to comply with. Together with more specific (industry specific, activity specific or hazard specific) regulations issued under the Act, it places the highest of standards on virtually all employers, persons in control of premises, manufacturers, and suppliers.

The legal framework introduced by the Act regulates virtually all work activity within the UK and time and time again we stress the importance of the Act to our clients.

The Act was introduced following the publication of the Lord Robens report in 1972, which was tasked with assessing the 'health and safety of persons in the course of their employment'. It amounted to a complete overhaul of the way employers are expected to think about the risks created by their operations, and design out danger.

When it comes to resolving any ambiguity in the Act, or in generally understanding what was intended, the very first section tells us that the Act aims to:

- Secure the health, safety and welfare of persons at work;
- Protect people who are not at work against risks to their health and safety arising out of or in connection with the activities of persons at work and
- Control the keeping and use of explosive or highly flammable or otherwise dangerous substances and generally preventing the unlawful acquisition of, possession and use of such substances.

To meet these aims, the Act imposes a series of general duties. These are extensive and onerous. They effectively require employers to guarantee the safety and health of their employees, and to operate their business such that their operations will not put others at risk, in so far as these objectives can reasonably be achieved.

### Examples of some of the steps that are required to comply with these duties include:

- Provide and maintain safe systems of work.
- Provide a safe place of employment.
- Provide information, training, instruction and supervision as is necessary to all employees.
- Ensure materials used are properly stored, handled, used and transported.
- Provide a written safety policy/risk assessment.

In relation to third parties, which includes contractors engaged by the employer, the work of the contractor will generally still be viewed as part of the employer's undertaking, and the employer must still take all reasonably practicable steps to eliminate or reduce the risks arising. This will include gaining an understanding of how the contractor intends to undertake the work and the precautions intended.

Adequate risk assessment is at the heart of the general duties under the Act. Once you fully identify the risks you are going to create by virtue of your operations, and the full range of those at risk, including employees, contractors and the public, you must then eliminate or, where that is not possible, reduce the dangers.

Also under the Act, manufacturers and suppliers are expected to test equipment before supplying it, and ensure their products are supplied with adequate information so that the user knows the safest way of using them. Those in control of premises must take reasonable steps to ensure the premises, and their access and egress routes, and anything stored there, are safe.

These general duties under the Act implement a goal setting culture, striving for assured safety and health, requiring employers to ensure that all steps, which are reasonably practicable given the nature of the work undertaken and best practice standards, are implemented. A failure to ensure such steps are taken is a breach and can be prosecuted as a criminal offence punishable now with imprisonment, disqualification orders and fines.

Inspectors of Health and Safety are blessed with wide-ranging powers to assist them in the investigation and prosecution of suspected offences arising from breaches of the Act. The investigatory powers include compulsory powers of questioning, the power to have documents produced, to take copies of documents and a power to seize certain articles. Penalties available for proven breaches include an unlimited fine and, for individuals acting as employers, a 2 year term of imprisonment.

Inspectors also have the power to issue prohibition and improvement notices which require an employer to cease or rectify working practices which are considered to be a cause of danger. Osborn Abas Hunt provides case study based industry specific training, and advice, on compliance with legal duties. Please contact us for further information.