

# Health and Safety System

## Health and Safety System



### Learning outcome

Understanding the key features of the health and safety system in Great Britain (GB)

#### Introduction

1. The “health, safety, and welfare” of people at work is one of the keys to a moral, ethical, caring and professional business, operating within the law of the land - GB.
2. **All “workers”** (employees, sub-contractors, emergency workers etc) **should be able to carry out their work safely.**
3. **Health and Safety (H&S) requirements at work are laid down in law.** These provide protection to employees, visitors to the premises and the general public who may be affected by the activities of the employer.
4. It is a **legal requirement** for employers, employees and others to follow the requirements of the law.
5. **A vast majority of organisations/employers provide and maintain high standards of H&S**, sometimes beyond the requirements of relevant health and safety law. GB has one of the best health as well as safety records in the world.

#### When law is not followed

6. **Things can go wrong** and at times extremely seriously. For example, workers can:
  - Be fatally injured.
  - Suffer from serious and permanent health effects including mental health.
  - Be using substandard/unsafe/unsuitable work methods, equipment, tools, personal protective equipment and welfare facilities.

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## The foundation of the current health and safety system

7. It was established by the **Health and Safety at Work etc Act 1974**, which came into force in 1974. It's may be referred to as HSWA, the HSW Act, the 1974 Act or HASAWA.

## The Health and Safety at Work etc Act 1974 as amended

8. It **provides an overarching legal framework** for health and safety in GB. Other H&S laws and activities are powered by this ACT.
9. It may be viewed as a mansion house with many rooms (see poster). Each room will house the rules and regulations on specific issues such as chemicals, manual handling, electrical safety and so on. It means that all other rules, regulations and enforcement powers on health and safety at work are made under this Act.
10. The **underlying principle** of this Act is that **those who create health and safety risks are best placed to control those risks**.



## Creators

11. They can be **employers, employees, manufacturers, designers, importers and suppliers** of articles (e.g. respirators, sanding machines, sanding papers, welding rods, crane etc) or substances (e.g. paints, solvents, welding gas) for use at work.
12. Because their activities, actions, omissions, articles, substances and products can harm others. When the exposure, (associated with hazards, and hazardous activities/situations) isn't adequately controlled, harm (risk) can be the result. The picture below shows an uncontrolled stonecutting. Stoneworkers can be exposed the dust. It can cause serious lung disease to workers.



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## Health and Safety at work and law

13. Both **criminal and civil law** apply to workplace health and safety.
14. **Employers must protect their workers** and others from getting hurt, ill or get killed by their work-related activities. **If they don't:**
  - a **regulator** such as the Health and Safety Executive (HSE) or local authorities **may take actions** against the employers (and employees, if they are at fault) **under criminal law**.
  - the **person** (workers or others) **affected** may make a claim for compensation against the employer **under civil law**.
15. Neither HSE nor local authorities have responsibility for applying civil law or setting the rules and guidance for the conduct of civil cases.

### Key terms

**Acts** – legal instruments that have been *approved by both the House of Commons and the House of Lords and have been given Royal Assent by the Monarch*. **ACTs of parliaments are known as Primary legislation**. Others made under an Act are called secondary law (e.g. The Manual Handling Operations Regulations).

**Statutory Instruments (SIs)** – These include *laws created by ministers* (or other bodies – local authorities) under powers given to them by an Act of Parliament. **SIs** include Regulations, Orders, and Rules. These **are called Secondary legislation**.

**Regulations** – An example is the Control of Substances Hazardous to Health (COSHH) Regulations.

**Order** – is another type of legal instrument, for example Fire Safety Order 2005

**Rule** – is another type of regulatory mechanism and deals with very specific aspect. For example, Rule 13 of the Coroners (Inquests) Rules 2013 requires the Coroner to supply various documents to an interested person on request.

**Codes – Approved Codes of Practice (ACoPs)** are guidance with specific legal standing. They are published after consultation with stakeholders (e.g. employer organisations, employee organisations, trade bodies and professional organisations). Before publication, it will have to be approved by an authorised person under the Act. (e.g. a Minister with powers or someone else). Employers' (when prosecuted for a breach of health and safety law), who have not followed an ACoP are likely to be found at fault by the courts.

**Guidance** - HSE and others (trade unions, employer organisations, professional bodies) may publish guidance on an issue at work. For example, how to use respirators at work. **HSE published guidance** will say that "This guidance is issued by the Health and Safety Executive. Following the guidance is not compulsory and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance as illustrating good practice." Most employers will follow the HSE guidance to be on the side of the law.

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**HSE booklets** – They explain an issue briefly and in simple terms. They are for use by Small and Medium Sized (SME) employers and employees in general. These booklets will be based on information in Approved Codes of practice, guidance and the law.

**British Standards** – these will describe good practice standards on a subject. In most cases and if it is relevant, HSE guidance would have taken account of the information in relevant British Standards.



**Key stakeholders in the H&S System**

16. These include **House of Parliament, House of Lords, Ministers, employers, employees, self-employed, manufacturers, suppliers, importers, trade unions, third-party organisations** (e.g. trade bodies, professional organisations, charities, sports clubs), **Health and Safety Executive (HSE), local authorities** and other authorised regulators, such as Rail Safety Regulator.

## Main Duty Holders

17. Employers, employees, self-employed, manufacturers, designers, suppliers, and importers.

## Employers

18. The HSW Act requires that an employer must, *so far as is reasonably practicable*:

Provide	It will involve things like	Useful additional information
Safe plant, maintenance and systems of work	Deciding what could harm “workers” and the precautions needed to stop it. Consulting and working with employees and their health and safety representatives in protecting everyone from harm in the workplace. Provide employees with any equipment and protective clothing needed, and ensure they are properly looked after.	Developing a safe system of work - risk assessment, putting control measures in place, testing, correct and adequate maintenance, consultation, training, supervision and planning and be ready for emergencies. Consultation / taking views and ideas are key part.
Safe use, handling and transport of articles and substances	As above.	As above.
Information, instruction, training and supervision	Explaining the hazards, extent of risk, how risks will be controlled and tell employees who is (are) responsible for getting things done.  Giving employees the H&S training and instructions needed to do their (your) job.	In a way employee can understand and free of charge. Effective supervision is key to implementing safe systems of work.

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<b>Safe place of work and safe means of access and egress to workplaces</b>	Providing suitable facilities, safety signs to move around in your workplace, safely Providing adequate first-aid facilities.	Free of charge, as required under various regulations; provision will depend on the risk, hazard, exposure and controls.  e.g. First aid regulations.
<b>Safe working environment</b>	Report major injuries and fatalities at work to HSE Incident Contact Centre. The number at present is 0345 300 9923.  Report other injuries, diseases and dangerous incidents online at <a href="http://www.hse.gov.uk">www.hse.gov.uk</a> .  Have insurance that covers you (employees) and others in case you (others) get hurt at work or become ill through work.  Work with any other employers or contractors sharing the workplace or providing employees (such as agency workers), so that everyone's health and safety is protected.	Requirement of the regulations known as RIDDOR.  Requirement of the regulations known as RIDDOR.  Display a hard copy or electronic copy of the current insurance certificate where you can easily read it.  Implement adequate risk management.
<b>Adequate welfare facilities</b>	Providing toilets, washing facilities and drinking water.	Free of charge and in sufficient numbers; clean and maintained. Covered by various regulations.

## Key term

### 'so far as is reasonably practicable'

The **degree of risk** in a particular job or workplace needs to be **balanced against the time, trouble, cost and physical difficulty of taking measures to avoid or reduce the risk**. It is only when the costs etc far outweigh the risks that taking no action can be justified. If prosecuted or failure to comply with the duties, a court will determine the 'so far as is reasonably practicable' test. See the presentation on "Basic principles of H&S laws."

## Employees

### 19. The main duties under the Act

<b>You need to do</b>	<b>It will involve things like</b>
<b>Taking care of your own health and safety and that of people who may be affected by what you do (or do not do)</b>	Never intentionally or recklessly interfere with or misuse anything provided for your health and safety.
<b>Co-operating with others on health and safety, and not interfere with, or misuse,</b>	Follow your training and instruction that your employer has given you. Participate in consultation, provide ideas that would improve H&S (don't wait to be asked).

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<b>anything provided for your health, safety or welfare</b>	Tell someone (your employer, supervisor, or health and safety representative), if you think the work or inadequate precautions are putting anyone's health and safety at serious risk. This includes any shortfalls in welfare facilities. Don't wait or wait to be asked.
<b>Following the training you have received</b>	when using any work items,, equipment, substances and personal protective equipment your employer has given you.



## Managing contractors

20. Anyone, who gets in to work to undertake work and is not an employee.
21. Your employer may use one or more contractors to a variety of job and tasks - for maintenance, repairs, installation, construction, demolition and many other jobs.
22. Sometimes your employer may have more than one contractor on site at any one time.
23. Your employer will need to think about how the contractors work may affect each other and how they interact with activities in your workplace. **If your health and safety can be affected by the activities of the contractors, your employer will need to tell you what is being done to make sure that the contractors are undertaking the work activities safely.**
24. Similarly, **if your work activities can affect the contractors, your employer need to tell them about it.**
25. Many accidents involve contractors working on site, so just watch what they are doing, especially cutting corners on health and safety.



## Health and Safety Executive

26. The Health and Safety Executive (HSE) is Britain's **national regulator for workplace health and safety.**
27. Local Authority Environmental Health Officers and others (e.g. The Office of Rail Regulations) have responsibilities for enforcement of health and safety in delegated (by law) workplaces.

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## Roles and responsibilities of HSE

28. Their roles and responsibilities could be summarised as:

- ✓ **Engage** with those involved in health and safety at work (including, employers and employees)
- ✓ **Explain** requirements
- ✓ **Encourage** compliance with law
- ✓ **Enforce** where necessary

29. They use a variety of methods to influence change and help people manage risks at work and comply with law.

## Advice, information and guidance

30. Some examples are listed below.

- Provide **practical advice** to small businesses to understand hazard, risks and what to do about them. For example, COSHH Essential sheets on wood dust (<https://www.hse.gov.uk/coshh/essentials/direct-advice/woodworking.htm>)
- Developing and publishing **detailed guidance** on how to approach risk control. For example, on Providing and using work equipment safely. For example, (<https://www.hse.gov.uk/pubns/indg291.pdf>)
- **Codes of practice, introductory leaflets** and **booklets** on how to comply with a specific law. For example, approved codes of practice on the Control of Substances Hazardous to Health Regulation, simple booklet on “what is COSHH”
- **Web based tools** such as examples of generic risk assessment, COSHH Essentials control sheets.

## Raising awareness about health and safety issues

31. **Encourage broader ownership** of health and safety by involving all those who have an interest. For example, trade bodies, trade Unions, Large employers, professional bodies.

32. Work with a wide range of partners to **help small businesses** improve health and safety standards through - support visits, on-site training and helping to develop support network as well as developing new laws.

## Permissions and licencing

33. Give ‘permission’ for **certain work activities** involving significant hazard, risk or public concern. For example, manufacture and storage of explosive and asbestos stripping (removal).

## Inspection and Investigation

34. They **target and inspect duty holders** to improve compliance and maximise the use of HSE’s limited resources. The approached used include:

- **Regular inspection of sectors which have the most serious risks** (e.g. construction industry).
- Taking actions, where they have information and intelligence that health and safety is a significant concern, such as:

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- **previous performance**
- **concerns raised by workers, the public or others**
- **incident investigations**
- **reports of injuries, diseases and dangerous occurrence**

## Research

35. HSE carryout research to:

- Help improve control practices.
- Understand a new type of hazard, risk and practical control measures.
- Develop guidance.
- Help propose new legislation, where necessary.

## When an inspector call?

36. An inspector will use a number of approaches:

- speak to relevant people, for example managers, supervisors, workers and employee representatives.
- observe a sample of workplace activities, conditions and practices.
- assess relevant documents, if necessary.
- check whether risk controls are effective.
- identify any breaches of the law.
- consider appropriate enforcement.

## Types of enforcement tools used by HSE

37. Inspectors may **use enforcement tools that is appropriate to the situation**, guided by HSE's Enforcement policy guides. It means they will consider things like hazard, seriousness of risk, employer attitudes and behaviours. These can include one or more of the following:

- providing information and advice face-to-face or in writing, including **Notification of contravention (NOC)**.
- serving notices on employers. There are two types of notices. An **Improvement Notice (IN)** provides a time limit for the employer to put things right. **Prohibition Notice (PN)** will require the employer to put thing straight away an until such time the work cannot proceed. A PN is issued when in inspector's view there is risk of personal injury if the work continues, for example using an unguarded dangerous machine.



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- **withdrawing approvals** (e.g. asbestos work-related licence).
- **varying licences, conditions or exemptions** (e.g. asbestos work-related licence).
- **issuing simple cautions**
- **prosecution**

## Charging for enforcement activities

38. It is called **Fees for Intervention** (FFI). If an employer is found to be in breach of h&S law, the employer will have to pay for the time it takes for the HSE to identify the breach and help the employer put thing right. This includes investigation, writing letters, taking samples, taking oral evidence and taking the case to court.

## Summary

39. In summary,

- Ministers and regulators propose and draft laws. They consult with the public and stakeholders during the development of a draft law.
- ACTs of parliament – see key terms.
- Regulations – see key terms.
- Those who create risks are subjected to the law.
- Both criminal and civil law apply to health and safety at work.
- Regulators, with powers given by the law, enforce H&S law. They can take the offenders to court.

## Useful references

40. A guide to health and safety regulation in Great Britain <https://www.hse.gov.uk/pubns/hse49.pdf>

## Quick Test - Tick all those that apply

1. **Health and safety at work is there to protect**

- Employees
- Trade union officials
- Those affected by work activities undertaken at a workplace
- The parliament

2. **Plan, do, check and act cycle, is it important for effective and efficient health and safety system in a workplace.**

- Yes
- No

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## 3. Prohibition Notice, does it form part of an HSE Inspector's enforcement toolkit?

- Yes
- No

## 4. Employees

- Should follow the training and instruction provided by their employer when undertaking a task.
- Can do the task as they think right because they are deemed competent to do the task.
- At work, your mates are not doing the work activities properly and it could affect the health and safety of to protect a subcontractor working close to them,
- Do not have to follow safety instructions provided on health and safety data sheets, if they consider the instructions as useless and slow down them work.

## 5. Who has the responsibility for health and safety when you are at a site?

- The client, contractor and your employer who sent you.
- The contractor who got the job for your employer
- All those at the workplace no matter who employed them to do the work
- Depending on the way the contract was signed by your employer

## 6. Which one of the items in the list below form part of an employer's duties under health and safety law?

- Provide toilets, washing facilities and drinking water
- Provide adequate first-aid facilities
- Report major injuries and fatalities at work to HSE
- Have insurance that covers you in case you get hurt at work or ill through work