

The health and safety at work act 1974 construction essay



**ASSIGN
BUSTER**

One of the earliest pieces of legislation that was wholly concerned with safety was the Explosives Act in 1875. This controlled the use and storage of explosives as some spectacular accidents had caused considerable public alarm. The Boiler Explosions Act came a little later and was followed by a series of Acts, some of which were, the Employment of Women, Young Persons and Children Act 1920, the Radioactive Substances Act 1948, the Mines and Quarries Act 1954, the Agriculture Safety, Health and Welfare Provisions Act 1956, the Factories Act 1961, the Construction Regulations 1961, the Public Health Act 1961, the Offices, Shops and Railway Premises Act 1963, and so on, culminating in the Health and Safety at Work Act 1974.

Wignall, Kendrick, Ancill, Copson (1999)

The Health and Safety at Work Act, 1974, was put in place ultimately to ensure the welfare of all employers, employees and members of the general public in and around the workplace. The intentions were to reduce the risk of accidents in the workplace and to eradicate any practice by the employer that could potentially put one's health at risk. Penalties were put in place for non-compliance. Failure to adhere to the legislation can lead to prohibition of certain operations, fines being imposed and even imprisonment.

Damage to employees health and accidents caused by incompetent methods of work are no longer acceptable. The Health and Safety at Work Act is in place to reduce these risks as far as is reasonably practicable.

P1. 1 – Legal Responsibilities of the Employer

The onus begins with the employer. It is their duty to enforce the rules set out within the act. Failure to do so can often lead to penalties such as

<https://assignbuster.com/the-health-and-safety-at-work-act-1974-construction-essay/>

imprisonment and fines, which will be detailed at a later stage. The main responsibilities for the employer can be summarised as follows:

To provide & maintain plant (i. e. dumpers, factory machinery, power tools, small tools etc) to a high standard to prevent injury and eliminate any other potential health risk. Safety Inspection registers should be kept and the employer should ensure regular checks are being carried out. Any item of plant that is reported faulty or unsafe should be withdrawn from use immediately and faults should be rectified fully before it is allowed back into operation.

To ensure plant is being used correctly by the employee and that the employee is competent to be using that piece of equipment. Full training and guidance should be offered where required.

To provide information, instruction and full training where necessary. Tool box talks are now regularly used as a method of conveying this guidance to employees. Other means of communicating information can be by notice boards, supply of literature and training courses.

Adequate supervision should be provided at all times to ensure employees are working in a safe manner and upholding their responsibilities under the Health and Safety at Work Act.

Personal Protective Clothing (P. P. E) should be supplied where required by the employee. For example, all construction site operatives should be given high visibility vests, safety boots and a hard hat. In the event of the operative being asked to use a piece of equipment such as a breaker or an

item of plant that could potentially damage ones hearing, extra consideration should be given and protective equipment such as gloves and ear protectors must be issued. The employer should enforce the use of P. P. E. at all times.

A safe working area should be maintained at all times. This includes adequate access and egress to the working area and precautions should be taken for any possible evacuation such as a fire drill. The working area should be well kept, clean and free of any unnecessary obstructions. Any rubbish should be disposed of in a safe area.

Provisions should be made regarding hazardous chemicals etc. Any container such as this should be clearly labelled and kept in a safe area.

Welfare facilities should be available at all times. These will be described more in depth at a later stage, but they should generally include a supply of hot and cold water, toilets and safe areas.

If five or more employees are employed, then a Health and Safety Policy should be implemented and maintained.

Procedures should be in place in the event of an accident. A qualified first aider should be on site at all times, along with first aid kits, spill kits and fire safety equipment. A list of first aiders and nearest hospitals should also be displayed on information boards around the workplace. Measures should be taken in case of the event of a fire. Meeting areas should be pre-arranged, fire exits should be kept clear and regular drills should take place.

Extra care should be given to protect young people and pregnant women. After all, you would not expect a pregnant woman to undertake any task that could have an effect on the welfare of the mother and child.

Nowadays, many workers are employed on a temporary basis in lieu of permanent employment. It is the employers' duty to ensure that temporary workers are given the same treatment as the permanent workers. Full training and guidance should be offered regardless of the length of the employees contract.

Risk assessments should be used as a form of identifying any possible hazards and minimising the risk of the hazard occurring.

P1. 1 – Legal Responsibilities of the Employee

We have already outlined the responsibilities that fall upon an employer but the employee is just as responsible for safety in the work place. Penalties for non-compliance of the Health and Safety at Work Act can also include imprisonment and fines. The employee must abide by the rules that have been given to him or her by the employer.

The main responsibilities for the employee are as follows:

To act in a manner that does not endanger anyone in or around the workplace. Tomfoolery is not acceptable, especially when machinery or other plant is in operation.

To wear Personal Protective Equipment in the correct manner at all times. If any item should need replacing then the employer must be notified so that he can fulfil his obligation as mentioned above.

Regular checks of plant should be made. If any item of plant is found to be faulty in anyway, it must be reported immediately to the supervisor and must not be used again until it is deemed to be safe to use again.

To be aware of emergency procedures that have been put in place such as what to do in the event of a fire alarm. They should also take notice of the list of qualified first aiders on site.

Facilities such as fire safety equipment and first aid equipment should not be interfered with unless genuinely required. Welfare facilities must also be looked after. Any employee found vandalising or misusing these facilities could be seriously disciplined.

To maintain their own working area. A high level of housekeeping should be kept at all times. The employee should ensure litter is disposed of correctly and keeps access and egress clear at all times.

To report anything that could be a potential health or safety hazard within the workplace. This can include a wide range of things such as, machinery being used incorrectly or by incompetent members of staff, smelling of dangerous gases, equipment being abused or vandalised, unsafe plant, electrical faults, P. P. E. not being used or anything else that could possibly endanger fellow employees or the general public.

P1. 2 – The Management of Health and Safety at Work Regulation 1999

The Management of Health and Safety at Work Regulations were originally implemented in 1992. They require the employer to take into account any potential risks by form of risk assessments, have procedures in place for emergencies and keep the employee fully informed of various health and safety issues that could effect them. In the following years, they were amended to protect pregnant mothers and young workers. The most recent revision was 1999 and can be found at www.legislation.hmso.gov.uk.

The main provisions of the Management of Health and Safety at Work Regulation are:

Risk assessments

The regulation requires the employer to make an assessment of the risks to the health and safety of the employees within the workplace and take into account any person that could be effected by the operations of the workplace, i. e. members of the public.

Preventive and protective measures

The measures that have been identified by the employer via the risk assessment must now be acted upon to reduce the risks as much as possible and eradicate the risk entirely where possible.

Health and safety arrangements

Arrangements should be made in relation to the size and type of activity that is being undertaken. The employer is required to plan and control the preventive and protective measures that he has put in place.

Health surveillance

If potential health risks are identified by the risk assessment then the employer must ensure the employee is provided with necessary health surveillance.

Health and safety assistance

Every employer is required to acquire assistance where needed to ensure he is complying with these regulations. This can be more than one person, whatever is relative to the size of the operation.

Contacts with external services

Information should be available at all times in case of emergency. This includes first aid and emergency medical care such as contact details for the nearest accident and emergency hospital.

Information for employees

Information such as risk assessments, preventive and protective measures, safety procedures, first aiders, fire wardens and any other potential risks to the employees health and safety should be supplied at all times. This can be communicated using information boards, tool box talks etc.

Co-operation and co-ordination

<https://assignbuster.com/the-health-and-safety-at-work-act-1974-construction-essay/>

This is to ensure that where there is more than one employer in a work place, they must communicate accordingly to ensure they are complying with the regulations. For example, it is imperative that multiple employers in any workplace would work together in the event of any evacuation. There would be only one evacuation plan for the entire workplace.

Persons working in the host employers' or self employed persons' undertakings

The employer is required to ensure that any person entering the workplace from an outside undertaking such as a building maintenance worker or any other visitor is provided with necessary information regarding any preventive and protective measure, emergency procedures and other information relating to the workplace.

Capabilities and training

This is to ensure that employees are competent to carry out the work they are being asked to undertake. Health and safety training should be available to new employees and existing employees to ensure they are aware of any risks.

Employees' duties

The employee is responsible for ensuring that they use any equipment or machinery in accordance with the training that has been given by the employer. This can range from using machinery correctly to ensuring the machinery they are using is in good working order.

Temporary workers

The employer must treat any temporary worker with the same adequate information that he would for people under fixed contracts. This should include full training and health surveillance.

New or expectant mothers

These measures were included in the more recent revision of the Management of Health and Safety at Work Act to protect pregnant and breast feeding mothers. The employer should ensure that new or expectant mothers are not exposed to any potential risks in the workplace. However, it is the responsibility of the expectant mother to give written notice of her condition.

Protection of young persons

The employer is required to protect any young persons he has employed and ensure that the employee is capable of undertaking the tasks he is being asked to do. For example, any task that is beyond his physical or psychological capability or any task that the young person is inexperienced to undertake.

Throw away and use Excel sheet

P1. 3 – Penalties for Non-Compliance of The Health and Safety at Work Act, 1974.

The penalties on the previous page seem to be vague and lack any consistency. For example, if a construction company owner fails to comply

with an improvement notice, he can be fined up to £20, 000 and face imprisonment for six months. For breaching a regulation within sections 2 and 65 of the Health and Safety Act, he would only be looking at receiving a maximum £20, 000 fine but no threat of imprisonment. I would think that a breach of the Health and Safety Act would have carried a larger threat to safety and welfare than failing to comply with an improvement notice.

Another problem with the penalties are that one construction company could face just as much punishment for failing to comply with an improvement notice as another company could for failing to comply with a court order. This is too vague and there should be a clear distinction between failures to comply with a notice. I would suggest the following to be more appropriate.

Failing to comply with an improvement notice

Maximum 3 months imprisonment and/or a maximum £5, 000 fine

Failing to comply with a prohibition notice

Maximum 6 months imprisonment and/or a maximum £10, 000 fine

Failure to comply with a court order

Maximum 6 months imprisonment and a £20, 000 fine

I would then expect any breach of section 2-65 of the Health and Safety Act to be punishable with a maximum £30, 000 fine and a maximum of one-year imprisonment. I would then expect any other breaches to be a maximum £10, 000 fine and maximum six months imprisonment.

Either way, I would look to distinguish the penalties of non-compliance and increase the fines for clear breaches of the legislation.

P1. 4 – The Provision of Welfare Facilities

The Construction (Health, Safety and Welfare) Regulations, 1996 contains an extensive section detailing the requirements relating to provisions of welfare facilities on site. Any person in control of a construction site is obliged to provide the following to site employees.

Sanitary Conveniences

Suitable and sufficient sanitary conveniences should be made available on site or an accessible place within the near vicinity.

Washing Facilities

Hot and cold water must be made available at all times for wash purposes. Showers may be a requirement, depending on the nature of the work being undertaken.

Drinking Water

An adequate supply of wholesome drinking water must be provided at all times.

Accommodation for clothing and changing

A facility that accommodates work clothes must be supplied so that the employee can change in and out of his work clothes (overalls etc) at the beginning and end of his shift.

Resting Area

An area must be provided for the employee to use for purely for rest purposes.

It is worth noting that all of the above provisions do not necessarily need to be provided specifically on site. The employer may reserve the right to use facilities within local establishments at the discretion of the proprietor. This could range from local shops to factories so long as it is within reasonable distance of the site and complies with the Construction (Health, Safety and Welfare) Regulations, 1996.