

A guide to health and safety regulation in Great Britain

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Foreword

This guide outlines the occupational health and safety system in Great Britain (GB). It responds to the many requests for information we receive from international visitors, enquirers and researchers, although many in Great Britain will also find it informative.

The foundation of the current health and safety system in Great Britain was established by the Health and Safety at Work etc Act 1974. One simple but enduring principle – that those who create risk are best placed to control that risk, whether employers, employees or manufacturers of articles or substances for use at work – has led to Great Britain having one of the best combined health and safety records in the world. Many other countries have used the GB model as a basis for their own framework. However, our model continues to evolve and it is therefore right that we describe the current system. We are also keen to listen to and learn from the experience of others to identify future improvements we might make.

HSE's strategy for the whole health and safety system – *Be part of the solution* was written following consultation with employers, employees and their representative groups from across the country, to help clarify respective roles and responsibilities, focus on real priorities and identify appropriate goals.

A number of recent reviews of the GB system have also confirmed our approach of supporting people who want to do the right thing, while holding to account those who choose to ignore their responsibilities, as an effective means for the regulator to play its part in reducing rates of work-related death, injury and ill health.

I hope you find this updated guidance useful and interesting.

Judith Hackitt

Chair, Health and Safety Executive

Introduction

Great Britain has a tradition of health and safety regulation going back over 150 years. The present system came into being with the Health and Safety at Work etc Act (HSW Act) in 1974 (www.hse.gov.uk/legislation/hswa.htm) with further significant modifications in 2008. The effect of this is to provide a unified institutional structure and legal framework for health and safety regulation.

The Health and Safety Executive (HSE) enforces the law in many workplaces, ranging from health and safety in nuclear installations and mines, through to factories, farms, hospitals and schools, offshore gas and oil installations, the safety of the gas grid and the electricity distribution system, the movement of dangerous goods and substances, and many other aspects of the protection both of workers and the public. In addition, over 380 local authorities are responsible for enforcement in a wide range of other activities, including the retail and finance sectors, and other parts of the services sector, particularly leisure.

Health and safety in nuclear installations is enforced by the Office for Nuclear Regulation (ONR), which is an agency of HSE.

The standards of health and safety achieved in Great Britain are delivered by the flexible regulatory system introduced by the HSW Act, and are typified by the Management of Health and Safety at Work Regulations 1999. They also reflect a long tradition of health and safety regulation going back to the 19th century. Since the HSW Act was passed, HSE has been engaged in progressive reform of the law, seeking to replace detailed industry-specific legislation with a modern approach in which regulations, wherever possible, express goals and general principles, and detailed requirements are placed in codes and guidance.

For more information about workplace health and safety development milestones in Great Britain see: www.hse.gov.uk/aboutus/timeline/index.htm

Work is currently underway to further modernise and simplify the health and safety system, to ease the burden on business and encourage growth through ensuring the health and safety system enables employers to make sensible and proportionate decisions about managing genuine workplace risks.

The HSW Act clearly places responsibility on those who create the risk to manage it. This applies whether the risk maker is an employer, self-employed or a manufacturer or supplier of articles or substances for use at work. Whatever the corporate status, each risk maker has a range of duties that must be implemented to manage the risk. Workforce involvement and, in particular, the work of health and safety representatives, make an important contribution to raising standards of health and safety.

All risks do not have to be removed but the law requires dutyholders to do everything 'reasonably practicable' to protect people from harm. An explanation of what 'reasonably practicable' means is provided at www.hse.gov.uk/risk/faqs/htm.

The system

The health and safety system as a whole includes the many stakeholders who have a role in maintaining or improving health and safety standards. Those stakeholders include employers, self-employed, manufacturers, suppliers, workers, third-party organisations, HSE and local authorities.

The Health and Safety Executive

HSE consists of a governing Board of up to 12 non-executive directors and over 3200 staff (including those in its agencies the Health and Safety Laboratory (HSL) and ONR). Members of the Board are appointed by the Secretary of State for Work and Pensions after consultation with organisations representing employers, employees, local authorities and others, as appropriate. HSE's staff include inspectors and other front-line staff, policy advisers, technologists, legal advisers, information and communication specialists, statisticians and economists as well as scientific and medical experts.

For an organisation chart please see:

www.hse.gov.uk/aboutus/furtherinfo/directorates.htm

In preparing proposals for regulations and standards, HSE relies on the advice of its staff and on scientific research carried out by HSL and externally. It also consults extensively with organisations representing professional interests in health and safety, business managers, trade unions, and scientific and technological experts. This is managed through a network of advisory committees and by public invitation to comment on particular proposals. Special efforts are made to seek the views of small firms, often using a range of intermediary organisations representing trade, sector or business interests.

For information on advisory committees see:

www.hse.gov.uk/aboutus/meetings/committees.htm

HSE is empowered to carry out investigations falling within its remit and publish reports. It may also, with the consent of the Secretary of State, direct an inquiry to be held.

The current HSE strategy *Be part of the solution* was introduced in 2009, following a three-month consultation programme. It presents the HSE Board's strategy for the health and safety system as a whole. The strategy is fulfilled through annual delivery plans.

For further information please see:

Strategy: www.hse.gov.uk/aboutus/strategiesandplans/index.htm

Delivery plans: www.hse.gov.uk/aboutus/strategiesandplans/delivery-plans/index.htm

How HSE works: www.hse.gov.uk/aboutus/hseswork.htm

Local authorities

The HSW Act and related legislation are primarily enforced by HSE or local authorities, according to the main activity carried out at individual work premises. The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different premises between local authorities and HSE.

Local authorities enforce health and safety law mainly in the distribution, retail, office, leisure and catering sectors. HSE liaises closely with local authorities on enforcement matters through the HSE/Local Authorities Enforcement Liaison Committee (HELA). An enforcement liaison officer network in HSE regional offices across Britain also provides advice and support.

Over 380 local authorities in England, Scotland and Wales have responsibility for the enforcement of health and safety legislation in over one million premises. These include offices, shops, retail and wholesale distribution, hotel and catering establishments, petrol filling stations, residential care homes and the leisure industry.

Inspectors in local authorities are typically environmental health practitioners who discharge their HSW Act enforcement duties alongside other local authority enforcement responsibilities, including food safety, pollution, housing etc.

Local authority enforcement: www.hse.gov.uk/lau/enforcement.htm

HSE and local authorities working together: www.hse.gov.uk/lau/index.htm

Ministerial responsibilities

Health and safety is regulated in the same way across the whole of Great Britain and a number of different Secretaries of State are responsible to Parliament at Westminster for the activities of HSE in different areas. The Secretary of State for Work and Pensions answers to Parliament on HSE's staffing and resourcing, on matters affecting protection of workers and on the majority of other HSE activities. Exceptions are where activities come within the specific area of responsibility of another secretary of state.

HSE is required to submit to the Secretary of State such proposals as it considers appropriate for making regulations under the HSW Act, and to submit to the Secretary of State particulars of what it proposes to do for the purpose of performing its functions. HSE is also required to ensure that its activities are in accordance with proposals approved by the Secretary of State. The Secretary of State has the power to direct HSE in particular matters (although they may not give directions with regard to the enforcement of health and safety law in any particular case).

Consultation

HSE consults those who are likely to be affected by any proposal before it goes forward to the formal stage. Though this process frequently makes use of the advisory committee network, it normally extends more widely. Within HSE, policy staff make use of the expertise of inspectors, scientists and technologists during the process of working up proposals into a practical form, as well as consulting local authorities.

Before it puts forward proposals for new legislation or codes of practice to ministers, HSE carries out a formal consultation process which is made publicly available and has a very wide circulation. Current consultation documents are available alongside previous examples on HSE's website at www.hse.gov.uk/consult/live.htm. This ensures that HSE, in finalising its proposals, is aware of the views of a range of people and institutions that may be affected by new health and safety provisions.

HSE has links with other bodies, notably universities, engineering institutions and the Health Protection Agency, which has a national function in relation to ionising and other radiations, infectious diseases and chemical incidents. Close contact is also maintained with professional and scientific societies, for example, the Royal Society, the British Occupational Hygiene Society, the Institution of Occupational Safety and Health and the Royal Society of Chemistry, which make a major input into the development of the scientific and technical base of occupational health and safety in the UK.

Internationally, HSE assists and co-operates with the main institutions – notably those of the European Union (EU) (the Directorates-General of the Commission, their advisory committees and working groups, and the European Agency for Safety and Health at Work), but also those of the Organisation for Economic Co-operation and Development (OECD), the International Labour Organization (ILO), the World Health Organization (WHO), and the International Atomic Energy Agency (IAEA) in developing and applying international standards, codes and guides.

Limits of HSE's responsibilities

Certain areas of risk or harm directly or indirectly related to work activity are covered by legislation other than the HSW Act and are not dealt with by HSE. These include consumer and food safety, marine, railway, and aviation safety and most aspects of environmental protection.

HSE regulates only in Great Britain, not the entire United Kingdom. In Northern Ireland workplace health and safety is regulated by HSENI (www.hseni.gov.uk).

Scotland

Health and safety law is reserved to the UK Government and is the same across Great Britain but there is a major difference in how health and safety offences are prosecuted in Scotland. HSE inspectors report matters they have investigated to the specialist Health and Safety Division within the Crown Office and Procurator Fiscal Service (COPFS), who decide whether or not to begin criminal proceedings. COPFS decides which offences to proceed with and HSE's costs are not recoverable following conviction in the Scottish Courts.

The Scottish Government has devolved responsibility for many policies affecting areas of private sector employment including agriculture and construction. Many public sector bodies are also devolved (the NHS, local authorities, the Police, Fire and Rescue and Ambulance services).

Reserved matters such as preventing work-related accidents and ill health, and devolved matters such as promoting better public health, are closely linked. HSE therefore works with relevant Scottish Government ministers, officials and agencies in consulting on policy that overlaps responsibilities of both Governments.

The Partnership on Health and Safety in Scotland (PHASS) capitalises on the close network of Government representatives, health and safety professionals, business and trade union bodies in Scotland and in response to requests for a specifically Scottish forum on health and safety. PHASS is chaired by a member of HSE's Board. It aims to co-ordinate Scotland's health and safety resources in improving standards.

**For further information about HSE in Scotland please see:
www.hse.gov.uk/scotland/**

Wales

The health and safety system and the legal system in Wales is the same as in England. Inspection arrangements and accountabilities involving HSE and Welsh local authorities are the same as in England. The Welsh Government has devolved powers in relation to health, education, environment, the Fire and Rescue Service etc, and as a consequence different arrangements may need to be made with ministers and other stakeholders in Wales in relation to consultation, engagement and implementation of legislative changes, or in developing and implementing inspection priorities and programmes.

**For further information about HSE in Wales please see:
www.hse.gov.uk/welsh/abouthse.htm**

The legal framework

Duties imposed by the Act

The HSW Act is based on the principle that those who create risks to employees or others in the course of carrying out work activities are responsible for controlling those risks. The Act places specific responsibilities on employers, the self-employed, employees, designers, manufacturers, importers and suppliers. The Act and associated legislation also place duties in certain circumstances on others, including landlords, licensees and those in control of work activities, equipment or premises. Under the main provisions of the Act, employers have legal responsibilities in respect of the health and safety of their employees and other people who may be affected by their undertaking and exposed to risks as a result. Employees are required to take reasonable care for the health and safety of themselves and others.

The main primary legislation for the health and safety system is the HSW Act; other legislation such as the Nuclear Installations Act 1965 is also relevant. The HSW Act gives power to the Secretary of State to make secondary legislation in the form of regulations. The HSW Act sets out the subject matter which such regulations can cover. Regulations are used to add detail to the main duties in the HSW Act.

Most duties are expressed as goals or targets which are to be met 'so far as is reasonably practicable', or through exercising 'adequate control' or taking 'appropriate' (or 'reasonable') steps. Qualifications such as these involve making judgments as to whether existing control measures are sufficient and, if not, what else should be done to eliminate or reduce the risk.

The main duties placed on employers and the self-employed under sections 2 and 3 of the Act, for example, are qualified by the phrase 'so far as is reasonably practicable'. This means balancing the level of risk against the measures needed to control the risk in terms of time, money or trouble. Control measures should be adopted unless they are grossly disproportionate to the risk. This judgment is an essential part of the risk assessment process and will be informed by approved codes of practice, published standards and HSE or industry guidance where available. The size of the business and its financial strength do not determine the health and safety standards to be achieved.

For further information about the Act please see:
www.hse.gov.uk/legislation/hswa.htm

Regulations, codes of practice and guidance

Regulations are made by the appropriate Government minister, normally on the basis of proposals submitted by HSE after consultation, as previously explained. They have to be laid before Parliament and become law 21 days later, unless an objection is made.

Approved codes of practice (ACOPs) are approved by HSE with the consent of the appropriate Secretary of State – they do not require agreement from Parliament. They provide practical guidance on complying with the general duties of the HSW Act or the requirements of goal-setting regulations. ACOPs are not law but do have a special legal status which means they are regarded as particularly authoritative; if the advice in ACOP material is followed in relevant circumstances dutyholders can be confident they are complying with the law.

Dutyholders may use alternative methods to those set out in an ACOP to comply with the law. However, if the dutyholder is prosecuted for a breach of health and safety law, and it is proved that they have not followed the relevant provisions of the ACOP, then they will need to show the court that they have complied with the law in some other way or they may be found at fault.

For further information please see: www.hse.gov.uk/regulation/index.htm

Providing information and advice

HSE publishes a wide variety of publications offering advice and guidance for workers, managers and the general public including those new to health and safety, low-risk business through to more technical and specialist guidance. HSE's website is one of the most visited across UK Government. HSE's portfolio of publications is freely available to download from HSE's website at www.hse.gov.uk.

Europe and the world

HSE, on behalf of the Government, is responsible for negotiating and transposing European legislation relating to occupational safety and health. A key element of European occupational safety and health legislation is the health and safety Framework Directive (89/391/EEC), primarily implemented in Britain by the Management of Health and Safety at Work Regulations 1999, which establishes broadly based obligations for employers to evaluate, avoid and reduce workplace risks.

A range of related and other directives, implemented through national regulations, cover:

- the management of specific workplace risks (such as musculoskeletal disorders, noise, work at height or machinery);
- the protection of specific groups of workers (such as new or expectant mothers, young people and temporary workers);
- measures to complete and maintain the single market in the EU; and
- the protection of the environment.

HSE supports the Department for Work and Pensions (DWP) in discussions with the International Labour Organization (ILO) regarding matters of occupational safety and health, such as ILO Conventions that promote decent working conditions.

For further information please see: www.hse.gov.uk/aboutus/europe

In addition, administration of the nuclear sector by ONR reflects the UK's status as a signatory to international conventions, its membership of international bodies such as IAEA, the application of international standards, and the implementation of European Directives (eg Nuclear Safety Directive (2009/71/Euratom)).

Competent authorities

HSE has been designated as the competent authority for the purposes of a number of European laws, including those concerning:

- the registration, evaluation, authorisation and restriction of chemicals (REACH);
- plant protection products;
- biocidal products; and
- the prevention of major industrial accidents (jointly with the Environment Agency and the Scottish Environment Protection Agency).

Standards

Information from inspections and investigations is used when developing standards. The British Standards Institution (BSI) is the national body responsible for the development of British Standards. The vast majority relevant to HSE are transposed European or international standards. BSI is the gateway to UK participation in the Comité Européen de Normalisation (CEN) and International Organization for Standardization (ISO) and, through the British Electrotechnical Committees, in the Comité Européen de Normalisation Electrotechnique (CENELEC) and the International Electrotechnical Commission (IEC). HSE is a major contributor – often on behalf of BSI – to the development of those standards, which have critical health and/or safety aspects.

Standards vary in scope and can cover performance specifications, operational practice or product design criteria. They may be referred to in HSE's published guidance, codes of practice and regulations. HSE has emphasised the continuing importance of standards as a form of guidance in promoting health and safety. With the number of standards under development at any time, HSE has to be selective on its direct involvement, but it can often offer advice and help to stakeholders who are involved in standards development.

The development of harmonised safety standards in support of 'new approach' directives, such as those for machinery and pressure equipment, represents a substantial element of HSE's work in connection with the single market. These standards are important since they give a presumption of conformity to the relevant directive and so allow manufacturers to design and build products that meet the standard, and they can then claim compliance with the relevant directive.

For more information about standards see:

www.hse.gov.uk/work-equipment-machinery/standard.htm

Market surveillance

HSE is one of the UK's market surveillance authorities. It monitors and enforces legal requirements on the safety (including risks to health) of most products used at work.

For further information please see:

www.hse.gov.uk/work-equipment-machinery/hse-role-market-surveillance-authority.htm

Enforcement

Enforcement policy

HSE aims to be a firm but fair regulator and inspectors decide what enforcement action is appropriate in accordance with HSE's published Enforcement Policy Statement www.hse.gov.uk/enforce/enforcepolicy.htm. The Enforcement Policy Statement drives proportionate and targeted interventions so that the highest risks and most serious offences attract the firmest enforcement action. HSE policy requires that enforcement action should be proportionate to the risk created, targeted on the most serious risks or where hazards are least well-controlled, consistent and transparent.

Powers of inspectors

The main object of inspection is to stimulate compliance with health and safety legislation and to ensure that a good standard of protection is maintained. Inspectors have, and make use of, important statutory powers. They can enter any premises where work is carried out without giving notice, although they will often visit by prior arrangement. They can talk to employees and safety representatives, take photographs and samples, and impound dangerous equipment and substances. If they are not satisfied by the levels of health and safety standards being achieved, they have several means of obtaining improvements:

- Verbal or written information and advice.
- Improvement or prohibition notices:
 - An improvement notice requires a contravention to be remedied within a specified time.
 - A prohibition notice is issued if there is, or is likely to be, a risk of serious personal injury, and it requires an activity to be stopped immediately or after a specified time unless remedial action is taken.
 - There is a right of appeal to an employment tribunal; improvement notices are suspended pending the hearing of the appeal but a prohibition notice remains in force unless the tribunal directs otherwise.
- Prosecution in the criminal courts for the most serious failings:
 - In England and Wales most cases are heard by magistrates who may, for certain serious offences, impose a maximum fine of £20 000 and a custodial sentence of up to 12 months. Some cases are referred to the Crown Court where custodial sentences of up to two years can be given and there is no limit on the fine that may be imposed.
 - In Scotland cases are taken in the sheriff courts either on summary procedure or on solemn procedure before a jury. The same penalties apply as in England and Wales.
 - A prosecution may also be brought against individuals and corporate bodies.

For statistics about the number of notices issued by HSE and local authorities see: www.hse.gov.uk/statistics/notices.htm

**For enforcement examples see:
www.hse.gov.uk/enforce/enforcementguide/court/sentencing-examples.htm**

**For information about penalties see:
www.hse.gov.uk/enforce/enforcementguidesc/penalties.htm#Table_2_Summary**

**For statistics about the number of prosecutions by HSE, local authorities, and the Procurator Fiscal on behalf of HSE and local authorities (Scotland) see:
www.hse.gov.uk/statistics/prosecutions.htm**

- In the case of a death resulting from a work activity, the need for a manslaughter investigation is always considered. Such manslaughter (in Scotland, culpable homicide), including corporate manslaughter (or in Scotland, corporate homicide), investigations are conducted by the police, with assistance from HSE or the local authority as appropriate.
- Investigation of particular accidents or incidents, so as to learn lessons or prepare legal action. There are various means of disseminating the experience gained in such investigations, for example, by publishing studies and reports.

For further information on enforcement see: www.hse.gov.uk/enforce/

Fee for Intervention

Under the Fee for Intervention Scheme (FFI), HSE will recover the costs of its regulatory work from dutyholders who are found to be in material breach of health and safety law. A material breach is when, in the opinion of the HSE inspector, there is or has been a contravention of health and safety law that requires them to issue notice in writing of that opinion to the dutyholder.

The fee is based on the amount of time that the inspector has had to spend identifying the material breach, helping businesses to put it right, investigating and taking enforcement action. Dutyholders who comply with the law, or where a breach is not material, will not be charged FFI for any work that HSE does with them.

Further guidance on the fee for intervention scheme, including the hourly rate at which fee for intervention costs are recovered, can be found on the HSE website www.hse.gov.uk/fee-for-intervention/index.htm

A systems approach

Assessment of the quality of health and safety management is an important element in HSE's approach to inspection. Companies are obliged by law to set out their health and safety policies and to write it down if they employ five or more people, and are increasingly encouraged to define and monitor their management systems.

HSE's inspectors are trained in how to assess management systems, and are able to carry out audits. HSE learns about beneficial developments in health and safety management, such as the relevance of the principles of quality management techniques, and provides guidance on their use.

Operational activities

The main functions of HSE's regulatory inspectors and the front-line staff who support them are to:

- investigate work-related deaths and the more serious incidents involving injury, occupational disease or dangerous occurrences;
- respond to complaints from workers or the public about health, safety or welfare conditions at work;
- inspect a wide range of undertakings and work activities from large, multi-site organisations to small firms, targeting higher-risk sites and the less compliant dutyholders;
- implement HSE's 'permissioning' regimes, which involve a requirement for a dutyholder to gain the regulator's approval or permission for certain activities;
- make enforcement decisions in accordance with HSE's Enforcement Management Model www.hse.gov.uk/enforce/emm.pdf and take appropriate action to secure compliance.

For further information about inspectors see *What to expect when a health and safety inspector calls* at: www.hse.gov.uk/pubns/hsc14.htm

Field Operations Directorate (FOD)

HSE inspectors work within several directorates. The Field Operations Directorate (FOD) covers many employment sectors including construction, agriculture, general manufacturing, engineering, food and drink, quarries, entertainment, education, health services, local and central Government and domestic gas safety. FOD carries its work out from HSE offices across Britain. The work involves primarily front-line activities, investigating incidents/accidents/complaints and taking enforcement action, contacting and inspecting workplaces and giving advice and guidance.

For further information see: www.hse.gov.uk/fod/index.htm

Hazardous Installations Directorate (HID)

HSE's Hazardous Installations Directorate (HID) regulates major hazard industries where failures in safe management and risk control can lead to catastrophic harm to workers and the public at large. This involves working to ensure those who create these risks are meeting their responsibilities to ensure that they are properly controlled.

HID's activities cover the offshore and onshore major hazard industries, for example offshore oil and gas; chemical and downstream oil; mining; explosives manufacture and storage; natural gas transmission and distribution networks; gas storage and import facilities; major hazard pipelines both onshore and offshore; and biological agents and genetically modified organisms.

HID's role is to assess whether a business's safety management arrangements are adequate for the activity they are undertaking. This includes carrying out hazard and risk assessments on design, commissioning, operation, testing and maintenance procedures. Alongside the physical infrastructure HID assesses how the plant is being run and how operators prevent issues such as equipment failure and human error escalating into a major accident, and if an accident happens, the effectiveness of measures designed to protect workers and the public.

For further information see: www.hse.gov.uk/hid/

Office for Nuclear Regulation (ONR)

ONR seeks to secure the protection of people and society from the hazards of the nuclear industry. Under the Nuclear Installations Act 1965 no site may be used for the purpose of installing or operating a nuclear installation unless a licence has been granted by HSE and is in force.

In April 2007 the staff responsible for civil nuclear operational security and safeguards matters became part of ONR. Regulation of the transport of radioactive materials by road and rail, and certain functions for sea and air (performed on behalf of the relevant competent authorities), moved from the Department for Transport to ONR in October 2011.

For further information see: www.hse.gov.uk/nuclear/index.htm

Training inspectors

HSE places great emphasis on recruitment and training of all its staff, relying as it does on a wide range of professional skills. Some health and safety inspectors are trained in systems and principles applicable to a wide range of activities, while others specialise in a single high-hazard industry, for example, mining, explosives or offshore oil and gas. All are highly trained to use discretion in applying the law and to feed information back to the policy and technical centres of HSE. All can call, where necessary, on the experience and expertise within their own and other inspectorates and elsewhere in HSE.

Almost all HSE FOD inspectors are graduates who undertake four years of training. This programme of field training under the supervision of experienced inspectors, together with HSE-led tutorials, is integrated with a specially designed academic course, which leads to the award of a post-graduate diploma in occupational health and safety.

Following on from this there is ongoing access to programmes of competence-related mid-career training which keep them professionally well equipped and in tune with the latest thinking in HSE and outside. Guidance is also issued to local authorities on the training and competence of local authority enforcement officers.

Policy

Policy staff work across HSE to advise on policy concerns, including legislation. They ensure, among other things, that HSE's proposals are legally sound, embody high technical and scientific standards, have taken into account EU and other international requirements and are, in practice, enforceable. Policy staff are active in consulting stakeholders, liaising with other Government departments, preparing briefings for ministers and Parliament and negotiating in a variety of EU and international working groups concerned with new legislation and standards.

The policy process

HSE is following the Government's commitment to achieve a cultural change so that alternatives to regulation are considered where possible and regulation is only used as a last resort. To help in this process HSE develops impact assessments to assess and understand the costs and benefits of the options that impact on business, charities or the voluntary sector.

Where regulations are necessary, the Government has moved from a 'one-in, one-out' rule to a 'one in, two out' rule, whereby no new regulatory cost on business and voluntary organisations can be brought in without the identification of existing regulations with at least twice an equivalent regulatory cost that can be removed. The Government publishes a *Statement of New Regulation* at six-month intervals – ahead of the common commencement dates – to identify forthcoming regulations and show the results of the rule. Common commencement dates are two dates each year (6 April and 1 October) when the Government aims to bring into force new domestic regulations bearing on business.

In developing its policy, HSE follows the principles of good regulation as adopted by the UK Government under the following headings:

- **transparent:** any regulation must be easy to understand with aims written in clear and simple language. People and businesses are given an opportunity to comment and time to comply before introduction;
- **accountable:** HSE answers to ministers, Parliament and the public for any legislation it proposes, with appeals procedures for enforcement actions;
- **targeted:** any regulation is focused on the problems and reduces adverse side effects to a minimum, where possible being goal-based, and regularly reviewed for effectiveness;
- **consistent:** new legislation is consistent with existing regulations – in health and safety and other subjects – and compatible with international law and standards; and
- **proportionate:** the effect that regulations have on people and businesses provides a balance between risk and cost, and alternatives to state regulation (such as guidance or electronic toolkits) are fully considered.

In line with the Government's 'Think Small First' initiative, HSE particularly considers the impact of its policies on small businesses – 99% of Britain's businesses are small and medium enterprises and they employ 50% of its workforce. HSE is also concerned to ensure that its proposals do not discriminate unfairly against any person or group.

Once the alternative solutions have been developed, this analysis is often made available to interest groups and the public for their views. This frequently takes place in two stages: the issue of a discussion document, where the problem is described and views are sought on appropriate action, and a consultative document, where the details of the options are presented and views sought on practicability. The results of this policy development process and the consultations are then presented to the HSE Board for it to advise ministers on the appropriateness of the regulations, if this is the option selected. If all agree that regulation is necessary, associated guidance is produced and issued well in advance of the implementation date of the regulations.

This process is designed to obtain broad public support, avoid unintentional consequences, and produce a solution which is enforceable and takes account of careful consideration of the risks, costs and benefits.

Impact assessment

All new policy initiatives, both regulatory and non-regulatory, that are likely to have an impact on dutyholders (businesses, charities and the public sector) need to be supported by an impact assessment. This:

- identifies the rationale for Government interventions and defines the specific objectives and intended outcomes of the initiatives;
- assesses the risks;
- assesses the benefits and costs for each option, including a 'do nothing' baseline case, in (where possible) monetary terms;
- summarises which sectors or groups of society will bear these costs and benefits, and identifies and assesses any issues of equity or fairness;
- assesses a range of other impacts, such as impact on small firms, on competition, on the environment, on carbon emission and on gender, race or disability equality;
- sets out the arrangements for securing compliance, with details of sanctions for non-compliance; and
- identifies how the policy will be monitored and evaluated, with results feeding back into the process of policy development.

**For further information on impact assessments please see:
www.hse.gov.uk/ria/index.htm**

Evaluation and review

Plans for evaluation of the impact of legislation are required before its introduction. These use the data gathered earlier in the process, which was used to justify the intervention, to contribute to a definition of a baseline and to allow the impact of the regulations to be quantified. The success of the legislation will be judged against how well it meets its objectives. Legislation, once introduced, is normally evaluated against a preannounced timetable. The aim is to repeat this process at intervals to identify whether the legislation should be modified or repealed.

Sunset clause

The Government has agreed that sunset and/or review should be mandatory for new domestic secondary regulation, where there is a net burden (or cost) on business or civil society organisations unless there is a good reason for not including it.

Science and research

HSE uses high-quality scientific and technological evidence to help it be an effective regulator and to ensure that policy and standards are technically sound and cost effective. HSE commissions a wide range of work on science and technology – around a quarter of the annual budget on research and the rest on support including applied research, investigating incidents and analysing and assembling evidence to support enforcement action.

HSE has an integrated science and research programme which addresses both generic and specific occupational health and safety issues. HSE's Corporate Science Unit supports HSE's Director of Science in ensuring that HSE continues to respond appropriately to the development and implementation of Government policy on science and research.

The HSE Science Plan sets out how HSE will apply science and engineering resources to the delivery and realisation of HSE's strategy goals.

For the latest Science Plan see: www.hse.gov.uk/research/

HSE has developed a statement for the implementation of the Government Chief Scientific Adviser's Guidelines on the use of scientific and engineering advice in policy making www.hse.gov.uk/research/content/gl2005.htm

HSE sources its scientific and engineering expertise mostly from HSL. It also uses various groups such as academia and external contractors. The type of work commissioned varies from longer-term scientific analysis through to scientific support for investigations. HSL's primary roles are to provide investigative work and services arising from HSE's day-to-day operation, which often require a rapid multidisciplinary response. Much of the scientific and technological content of policy development and operational casework is provided by staff who are highly qualified in a range of industrial and scientific disciplines, and work across HSE's operating directorates and in HSL. HSE maintains a dedicated horizon-scanning team based at HSL to keep the health and safety consequences arising from new trends in science and technology under review.

For further information about science and research at HSE see: www.hse.gov.uk/research/

Control of risks at the workplace

Managing risk

Employers are required to make and apply health and safety arrangements.

Health and safety does not have to be complicated and should be about taking sensible and proportionate measures to control the risks in the workplace, not about creating huge amounts of paperwork. HSE has developed a suite of resources to make it easier for businesses to meet their health and safety obligations.

HSE provides basic information on what businesses must do to make sure they comply with health and safety law. 'Health and safety made simple' can be found at: www.hse.gov.uk/simple-health-safety/index.htm

For more complex businesses further information for managing health and safety can be found at: www.hse.gov.uk/managing/index.htm

Consulting employees

In workplaces where trade unions are recognised, the unions have the right to appoint safety representatives to act on the employees' behalf in consultations with their employer about health and safety matters. Employers must consult with any employees not represented by an appointed safety representative either directly or through representatives elected by the employees concerned.

Health and safety assistance

Employers must appoint one or more 'competent persons' to help them meet the requirements of health and safety law. A competent person is someone who has sufficient knowledge, training and experience to assist the employer properly. The level of competence required will depend on the complexity of the situation and the particular help the employer needs.

When appointing people, it is advisable for employers to give preference to those in their own workforce who have the appropriate level of competence. In some circumstances, a combination of internal and external competence might be appropriate. For example, employers may need outside help in devising and applying measures identified in risk assessments that are needed to protect workers' health and safety. Employers may also need help from experts such as health professionals to advise on the health effects of particular work activities or to carry out procedures such as health surveillance.

Many businesses develop in-house competence to manage their health and safety risks and do not need to use health and safety consultants. Other employers,

however, may need to purchase additional help. The Occupational Safety and Health Consultants Register (OSHCR) (www.oshcr.org/) is a register of consultants who can offer general advice to UK businesses to help them manage health and safety risks. Health and safety consultants registered on OSHCR have a status recognised by the participating bodies in the scheme.

**For further information see ‘Get competent advice’ at:
www.hse.gov.uk/business/competent-advice.htm**

Permissioning regimes

‘Permissioning’ regimes require a dutyholder to gain the regulator’s approval or permission for certain activities. They include testing, licensing, certification, approvals, exemptions and acceptance of notifications.

Licensing or approval regimes are reserved for areas where the nature of the risks or other potential effects demand detailed controls. For example, legislation requires that no site may be used for the purpose of installing or operating a nuclear installation unless a licence has been granted by HSE and is in force. After the licence is issued ONR regulates licence holders by ensuring that they continue to demonstrate compliance. Ongoing compliance with the licence conditions and other legal obligations is required, for example, the Ionising Radiations Regulations 1999 which cover the general radiation protection of workers and the public from work activities involving ionising radiations.

Safety reports/cases for major hazard installations identify and evaluate the hazards and describe the management system and the precautions designed to prevent, control or minimise the consequences of any significant accident. In the case of nuclear installations, permissioning decisions are based primarily on an assessment of these safety cases.

In the case of offshore installations, an installation is not allowed to operate unless it has a current safety case which has been ‘accepted’ by HSE. Offshore safety cases have to include provision for internal audit to ensure that the arrangements are kept under regular review. In the case of onshore major hazard installations, the safety report must demonstrate that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and limit their consequences for people and the environment.

The outputs from safety cases and safety report assessments are used by inspectors in all areas to determine inspection priorities, and as a standard against which to judge the operator’s performance.

HSE prioritises and plans interventions at major hazard sites, including those sites that are not required to submit safety reports, based on assessments of inherent hazards and how well individual companies control their risks. This is done within the context of sector strategies which set out the strategic health and safety issues within the relevant sector, and includes a programme of goals and objectives for HSE and other partners in the health and safety system to take forward.

In accordance with Government policy, HSE recovers the costs involved in operating permissioning regulatory regimes. HSE also recovers its costs for conventional health and safety at most high-hazard sites.

Costs are recovered for inspections, investigations, the assessment of safety cases or reports, notifications, the issue of new licences and of amendments to existing ones.

**HSE's cost recovery arrangements are published at:
www.hse.gov.uk/charging**

For the larger schemes (Control of Major Accident Hazards Regulations (COMAH), gas transportation and offshore), tripartite Cost Recovery Review Groups are consulted about HSE's priorities, levels and outcomes of regulatory activity and future proposed cost recovery rates.

Insurance and compensation

Employees who are injured or made ill at work because of an act or omission by their employer may be entitled to bring a claim for damages in the civil courts. Employers are required by law to take out compulsory insurance against their civil liabilities in respect of injuries or disease sustained by their employees at work. Some employers are exempt from this provision – for example family businesses and most public organisations – see *Employers' Liability (Compulsory Insurance) Act 1969: A brief guide for employers* www.hse.gov.uk/pubns/hse40.htm. This does not give the employee an automatic right to compensation but, if the employee's civil action succeeds, the insurance policy will ensure that the employee is compensated. The insurance policy must provide cover of at least £5 million arising out of any one occurrence.

The insurance is provided by private insurance companies who in some cases also provide some preventive services such as testing and inspecting high-risk plant. Such tests and inspections are required by law for plant such as pressure systems and lifting machinery and equipment.

Any employee resident in the UK who is injured or made ill at work is also entitled to treatment from the National Health Service and, with very few exceptions, everyone is entitled to be registered with a provider of primary medical services (a GP practice). In certain circumstances it is possible to claim compensation through the state benefits system. The Industrial Injuries Scheme provides non-contributory, no-fault compensation for disablement for either an accident at work or because of contracting one of over 70 prescribed diseases through specific occupations.

For eligibility criteria and further information please see: www.dwp.gov.uk/publications/specialist-guides/technical-guidance/db1-a-guide-to-industrial-injuries/introduction-to-the-industrial/

Diversity

HSE is committed to protecting the health and safety at work of all people in Britain. Careful consideration is given to how policies take account of the needs of different groups in Britain's diverse workforce and ensure that HSE is reaching people from different groups effectively, with messages they find accessible and culturally acceptable.

For further information see: www.hse.gov.uk/diversity/index.htm

Information for posted workers and non-English speakers

Posted workers

Workers posted to work in Great Britain are entitled to exactly the same protection under GB health and safety legislation as any other worker (see for example www.hse.gov.uk/migrantworkers/index.htm). HSE inspects on the basis of risk and sector/activity, not employment status, so interventions are not specifically targeted at particular groups such as posted workers. When HSE does come across them, it will take action to protect them as necessary using exactly the same principles as for other workers.

Information and advice for workers whose first language is not English is available on our website and in a range of translated guidance leaflets. Options for contacting HSE with concerns about workplace conditions include a complaint form available for completion in a range of European languages.

Language services

Information, help and guidance can be found on the HSE website in a number of publications translated into languages other than English.

For details see: www.hse.gov.uk/languages/index.htm

Further information

Legislation: www.hse.gov.uk/legislation/index.htm

Guidance: www.hse.gov.uk/guidance/index.htm

About HSE: www.hse.gov.uk/aboutus/index.htm

For information about health and safety, or to report inconsistencies or inaccuracies in this document, visit www.hse.gov.uk/. You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

This leaflet is available at: www.hse.gov.uk/pubns/hse49.htm.

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