The Health and Safety at Work etc.

Act 1974

Given that the health and safety advice from SSERC is underpinned by various pieces of legislation, we thought it might be an idea to let you know a little about the Acts and Regulations that affect schools and colleges.

It is worth saying at the outset that health and safety is not a devolved matter: all health and safety laws are set in Westminster.

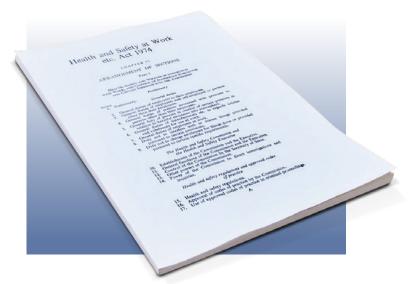
We'll start at the beginning. There is in fact only one Act directly relating to health and safety, The Health and Safety at Work etc. Act 1974 (HSWA). An Act is what is known as primary legislation: a motion is tabled in Parliament, debated and voted on just like most other pieces of legislation we are familiar with.

What is the HSWA?

HSWA is a key piece of legislation covering all aspects of health, safety and welfare in the workplace. It is an 'enabling' act – which means that it allows various health and safety regulation (such as COSHH and The Electricity at Work Regulations) to be introduced without any need for the normal parliamentary process – which can be very time-consuming. (Parliament can, though, block any proposed regulations).

At work

This is a key point. There is no need to risk assess your garage before carrying out any work on your car (though strangely HSWA itself does not insist on risk assessment). But similar work in a college workshop would need to be risk assessed. Most of the time it is clear what being 'at work' means but travel can be confusing. If you are travelling for work, on a trip, collecting equipment, moving between premises on a split site, then that is considered as being at work. But travelling to work from your home and back does not.



The key points of the act are:

Duties of employers

Most duties are placed on employers: Local Authorities for most schools but Boards of Governors in most colleges or independent schools. They must:

- ensure, so far as is reasonably practicable the health, safety and welfare at work of all his employees (a similar duty applies towards others who are not employees e.g. learners):
- make sure your workplace and equipment is safe and without risks to the health of workers and anyone else;
- produce, and make available, a health and safety policy;
- explain how risks will be controlled and tell you who is responsible for this in a way you can understand;
- consult and work with you and your health and safety representatives (if there are any) in protecting everyone from harm in the workplace;
- give you the health and safety training you need to do your job free of charge;
- provide any equipment and protective clothing needed for the job and ensure it is properly looked after free of charge;
- provide adequate facilities for welfare eg toilets, washing facilities and drinking water.

ig facilities and urinking water.

STEM bulletin 279 - October 2023 20

Health & Safety

Duties of employees

Employees do not get off scot free here. Duties are placed on you as well. You must:

- look after your own health and safety as well as that of others;
- follow the training you have received when using any work items your employer has given you;
- take reasonable care of your own and other people's health and safety;
- co-operate with your employer on health and safety;
- 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 phrase so far as is reasonably practicable (SFAIRP) is widely encountered in health and safety law. It means that the risk in a particular situation can be balanced against the time, trouble, cost and physical difficulty of taking measures to avoid the risk.

This is, in the end, a judgement. Guidance is available from the HSE but ultimately the decision about whether a measure is practicable is for the courts.

E.g. providing a rubberized surface over a whole playground at the cost of £1,000,000 to prevent grazed knees is clearly not reasonably practicable.

Providing suitable ear defenders for workers in a noisy workshop, clearly is.

One of the most important aspects of the Act is that it allows all sorts of other health and safety law to be passed in the form of secondary legislation which, to all intents and purposes, by-passes Parliament. We will look at the most important of these regulations in future Bulletins.



