



HEALTH AND SAFETY AT WORK ETC. ACT 1974

*Client Information Sheet, including the Act translated
into layman's English*

PERSES



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The information in this document is intended to provide a general overview of the key provisions of the statute. It is not a comprehensive guide to the full scope of the legislation, its operation, or likely application to a particular scenario in a court of law. Legal advice should be sought if detailed guidance about the statute or its implications are required.

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HEALTH AND SAFETY AT WORK ETC. ACT 1974

Health and Safety basics

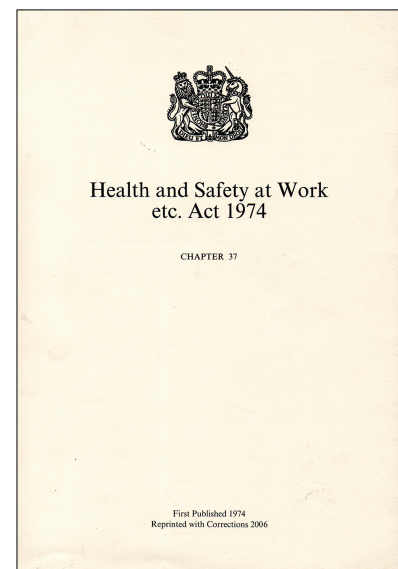
Lord Roben

Alfred "Alf" Robens, Baron Robens of Woldingham, PC (18 December 1910 – 27 June 1999) was an English trade unionist, Labour politician and industrialist. His political ambitions, including an aspiration to become Prime Minister, were frustrated by bad timing; but his energies were diverted into industry: he spent a decade as chair of the National Coal Board, and later headed a major inquiry which resulted in the Robens Report on health, safety and welfare at work. His outlook was paternalistic, but in later life, he moved away from his early socialism towards the Conservative Party. His reputation remains tarnished by his failure to have foreseen and prevented the Aberfan disaster, followed by actions widely regarded as insensitive during this disaster's aftermath.



Health and Safety at Work Act 1974 (H.S.A.W.A-74)

An act to make further provision for securing the health, safety and welfare of persons at work, for protecting others against risks to health or safety in connection with the activities of persons at work, for controlling the keeping and use and preventing the unlawful acquisition, possession and use of dangerous substances, and for controlling certain emissions into the atmosphere; to make further provision with respect to the employment medical advisory service; to amend the law relating to building regulations, and the Building (Scotland) Act 1959, and for connected purposes.



Health and Safety at Work Act 1974 - Translation

Section 2 (1):

Legalese:

An employer has a duty to ensure as far as is reasonably practicable the health, safety and welfare of employees.

English:

The company has to make sure, as best he can, that his workers are safe and healthy at work.

Section 2 (2):

Legalese:

Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular:

English:

The company's duties include (a) – (e) below, but the duties aren't just what's on this list.

(a)

Legalese:

An employer has a duty to provide and maintain plant and systems of work, so they are safe and without risk to health.

English:

The company has to make sure plant equipment and the way it's used are safe to use and won't damage your health.

(b)

Legalese:

An employer has a duty to make arrangements for ensuring the safe use, handling, storage and transport of articles and substances.

English:

If workers are handling, using, moving or storing something dangerous, your boss has to make sure that rules are in place so that this can be done safely.

(c)

Legalese:

An employer has a duty to provide health and safety information, instruction, training and supervision.

English:

The company has to give workers details about health and safety, write this down, train them how to do it safely, and supervise them while doing it.

(d)

Legalese:

An employer has a duty to maintain the place of work so that it (and access to and exit from it) is safe and without risk to health.

English:

The company has to look after the place where his people are working so that it is safe and won't damage their health. This includes entrances and exits to this place.

(e)

Legalese:

An employer has a duty to provide and maintain a safe working environment and adequate welfare facilities.

English:

The company has to give his workers a safe place to work and make sure it stays safe. He also has to make sure his workers have toilets, washing facilities, water to drink, and a place to take a break.

Section 3 (1):

Legalese:

An employer (or self-employed person) has a duty to safeguard those not in their employment but affected by the undertaking.

English:

The company has to make sure his workers are safe. He also has to make sure that anyone who might be affected by the work is also safe, even if they don't work for him.

Section 4:

Legalese:

Includes a duty on persons concerned with premises to ensure that means of access and egress are safe for those using the same. Those in control of non-domestic premises also have a duty to ensure so far as is reasonably practicable, that the premises, the means of access and exit, and any plant (such as boilers and air conditioning) or substances are safe and without risk.

English:

Somebody who looks after a work site has to make sure that people who work there can get in and out safely. They have to make sure that anything at the work site is safe too.

Section 6:

Legalese:

Persons who design, manufacture, import or supply any article or substance for use at work must ensure, so far as is reasonably practicable that it is safe and without risk to health. Articles must be safe when they are set, cleaned, used and maintained. Substances must be used without risk to health when they are used, handled, stored and transported. This requires that information must be supplied for the safe use of the articles and substances. There may be a need to guarantee the required level of safety by undertaking tests and examinations

English:

Anyone who makes or provides something for use at a work site has to, as much as they can, make sure it's safe and can't cause health damage. If it's an object, it has to be safe when it's put in place, cleaned, used, or looked after. If it's a chemical, it must not hurt your health when it's used, touched, put away or moved. The person who has made or provided the object has to give information about how it can be used safely. If the object is something that has to be tested to make sure it's safe, then the person who has provided it has to test it.

Section 7:

(a)

Legalese:

An employee has a duty to take reasonable care of their own health and safety and to ensure that their acts or omissions do not put others at risk.

English:

A worker has to make sure that they look after themselves and those around them. This includes things that they don't do, as well as things they do.

b)

Legalese:

An employee has a duty to co-operate with their employer to allow them to discharge their legal duties.

English:

A worker has to work with his boss to make sure that they're not breaking health and safety law.

Section 8:

Legalese:

No person is to ruthlessly interfere with, or misuse equipment provided in the interest of health and safety.

English:

No-one is allowed to mess around with health and safety equipment.

Section 9:

Legalese:

Employees cannot be charged for health and safety regiments such as personal protective equipment.

English:

All health and safety equipment must be supplied free of charge.

Section 36:

Legalese:

Where an offence is committed by a person that was caused by the act of a second person, the second person may also be charged with the first person. This situation may arise during the trial of the first person when it becomes apparent that the action was the fault of a second person. The H.S.E have the power under this section to prosecute either both persons or just one. The first person is usually the employer and the second person could be, for example, a manufacturer of a faulty product or a self-employed contractor.

English:

If someone breaks a health and safety law because of something someone else did, both people can be charged by the H.S.E.

Section 37:

Legalese:

Where an offence is committed by a corporate body with the consent or connivance of, or is attributed to any neglect of, a director or other senior officer of the body both the corporate body and the person are liable to prosecution.

English:

If a boss at a company did something which meant that a health and safety offence happened, both the boss and the company can be charged with the offence.

Section 40:

Legalese:

The burden of proof with health and safety offences is that you are guilty until proven innocent.

English:

With health and safety offences, the H.S.E doesn't have to prove in court that you did something wrong. You have to show that you didn't.

Note:

There is nothing in this Act which is anything other than common sense. If the employer is paying someone and exposing them to a hazard, they must protect that person.

Legal duties in Health and Safety

Levels of duty : Absolute, Practicable and Reasonably Practicable.

Absolute

Legal duty (must). No choice or evaluation of risk or feasibility to be made.

Practicable

Technologically feasible to carry out a requirement, then it must be done. Does not allow for cost and effort calculations to be made before deciding on actions.

i.e. P.U.W.E.R 1998: Machinery should be guarded so far as is practicable.

Reasonably Practicable

A multilevel equation balancing: time, cost, and effort against impact (human and environmental).

H.A.S.W.A-74, Section 2 (1); the employer is to ensure the health, safety and welfare of his employees so far as is reasonably practicable.

Key defining case: Edwards vs. National Coal Board [1949]

Lord Asquith: Reasonably practicable = balance of risk and sacrifice.

The tort of negligence : The breach of common law legal duties of care to exercise reasonable care towards others resulting in a loss, damage, or injury.

Key defining case: Donoghue v Stevenson [1932]

Three main points to test for negligence:

- 1 - Defendant under duty of care to claimant
- 2 - Duty was breached.
- 3 - Result of the breach resulted in damage or loss.

Tort / Delict: A wrongful act or omission causing harm or damage to a person or body corporate which is actionable by common law. E.g. nuisance, negligence, common breach of statutory duty.

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