

Common provisions in health and safety law

INTRODUCTION

1 This guide is intended for employers and self-employed people who have duties under health and safety law to assess risks in the workplace. Read it if you want to know more about the law. It shows how the risk assessment provisions in different regulations are linked together and what they add up to.

WHY THIS GUIDE?

2 The HSE leaflet *Five steps to risk assessment* gives practical guidance to employers and self-employed people on how to assess risks and record the findings of the assessment. This guide complements *Five steps*.

3 Many of you have found *Five steps* adequate for your needs. However, some of you have said that you want an additional guide. There are many regulations that require risks to be assessed and certain risks are covered by more than one of these regulations. A guide showing how the different requirements to assess risks relate to each other could help to prevent needless duplication of effort.

4 For example, *Five steps* says that if you have already assessed the risks and the precautions that must be taken to comply with one of the regulations, you should consider them 'checked'. If there is a similar requirement in another of the regulations you do not need to repeat all that again. But it is not always obvious that, at times, certain provisions in different regulations require the same thing to be done. For example, they are often worded differently because they have to reflect requirements in European Community directives.

5 This guide should help you to check that your assessment of the risks addresses all that might cause harm in your workplace. It will help you avoid going over again things that you have already done in examining that the precautions you have in place are reasonable and meet all that the law requires of you. It looks at the common features of these provisions, compares them, including their wording, and examines the significance of the differences between them.

REGULATIONS COVERED

6 This guide looks only at the risk assessment provisions likely to affect firms with common risks, namely the provisions of the:

- Management of Health and Safety at Work Regulations 1992 (**Management Regulations**);
- Manual Handling Operations Regulations 1992 (**Manual Handling Regulations**);
- Personal Protective Equipment at Work Regulations 1992 (**PPE**);
- Health and Safety (Display Screen Equipment) Regulations 1992 (**Display Screen Regulations**);
- Noise at Work Regulations 1989 (**Noise Regulations**);
- Control of Substances Hazardous to Health Regulations 1999 (**COSHH**);
- Control of Asbestos at Work Regulations 1987 (**Asbestos Regulations**); and
- Control of Lead at Work Regulations 1998 (**Lead Regulations**).

It does not cover regulations dealing with highly specialised risks such as major hazards, ionising radiation, genetic manipulation etc.

COMMON FEATURES

7 The common features of the risk assessment provisions in these regulations are summarised in the first eight columns of the attached table. The last two look at the differences between the features and explain what these differences amount to. The common features examined are as follows.

Purpose of the assessment

8 As you can see from the table, this is different for each of the regulations. They all require you to do certain things to help you take decisions about what to do to prevent people being harmed. However, the risk assessment provisions of the Management Regulations are rather special. They require employers and self-employed people to assess the risks created by their undertaking so as to identify the measures they need to have in place to comply with their duties under health and safety law. As such, the assessment provisions of the Management Regulations are superimposed over all other workplace health and safety legislation including the general duties in the Health and Safety at Work Act.

9 This makes the Management Regulations risk assessment provisions very wide-ranging and all-embracing. They are comprehensive in coverage of places, activities and other sources of hazard. They require you to assess all the risks in your workplace. That is, what could cause harm to yourself, your employees (if any) and members of the public, and the likelihood that harm will occur in practice. You then need to decide on the precautions you must take to prevent this happening. As *Five steps* points out, in doing so you will have to take account of the specific things that the law says you must do (in regulations for example), available guidance on good practice, and what is reasonably practicable.

10 The risk assessment provisions in the other regulations are much more specific and generally require you to do particular things for certain groups of people and/or if certain conditions are met. For example, if there is a risk of people breathing in asbestos dust because of your activities, you will have to find out the type of asbestos you have in your workplace and how much of it people are likely to breathe in, before you can decide on the precautions you need to take to prevent people being harmed. You will find other examples as you read this guide.

Who has to assess the risks?

11 In all cases employers and self-employed people are responsible for assessing the risks and seeing that it is adequately done, except for the Display Screen Regulations where, if you are a self-employed person, you don't have to undertake an analysis of workstations. But remember, under the Management Regulations self-employed people will still have to satisfy themselves that they are not at risk when working with display screens.

12 You don't have to carry out assessments yourself. As *Five steps* points out, you can assess the risks and record the significant findings yourself if you are confident that you can do so but, if not, you can get help from a competent source.

Whose risks should be assessed?

13 The Management Regulations require you to assess risks to the health and safety of anyone that may be affected by your activities - yourself, workers and members of the public. However, you will have to check whether the other regulations require you to do certain things for all or some of these people. For example, the Display Screen Regulations require employers to assess workstations for health and safety risks to their workers and self-employed people working for them, but not members of the public. Similarly, the Manual Handling Regulations require you to assess risks to yourself and your employees (if any) but not to members of the public.

14 Here again you must remember that under the

Management Regulations you have to make sure that members of the public are not harmed by your activities. For example, if you invite members of the public to use display screens, you have to ensure that they can do so without risks to their health and safety, using good practice and what is reasonably practicable as a guide.

What risks should be assessed?

15 The Management Regulations in effect require you to examine what in your work could cause harm to people so that you can weigh up whether you have taken enough precautions or should do more to meet what the law says you must do. However, the risk assessment provisions in the other regulations covering specific hazards often tell you in more detail what you need to examine. For example, the Manual Handling Regulations list the factors that you must consider if you or your workers have to lift loads that could cause injury.

How thorough should your assessment be?

16 The risk assessment provisions in all these regulations say that your assessment of risks must be either 'adequate' or 'suitable and sufficient'. These mean the same thing and tell you that you do not have to be overcomplicated. In deciding the amount of effort you put into assessing risks, you have to judge whether the hazards are significant and whether you have them covered by satisfactory precautions so that the risks are small.

When to assess?

17 Though the Management Regulations do not say so, in practice you have to assess the risks in your workplace before you begin any new work. Many of the other specific regulations (eg COSHH) tell you that you cannot start work before you have assessed the risks they cover, or tell you at what stage you have to do certain things. For example, if noise in your workplace is at or exceeds a certain level then the Noise Regulations assessment provisions require you to do certain things.

Recording the assessment

18 The Management Regulations require those of you who have five or more employees to record the significant findings of your assessment. However, if you have to do the specific things that the risk assessment provisions of the Noise Regulations require, then you have to keep a record of every assessment, even if you have less than five employees. These regulations also tell you how long you have to keep the records.

Reviewing the assessment

19 All the regulations require that you review your assessment and revise it as necessary. They all say that you have to do this if you 'suspect that your assessment

is no longer valid or there has been a significant change', or words to that effect. The COSHH and Asbestos Regulations also say that you must review your assessment regularly. This is good practice anyway and *Five steps* recommends this be done for assessments made under other regulations.

HOW CAN THIS GUIDE HELP?

20 This guide helps those of you who want to find out more about the law on risk assessment. It can also help those of you who want to double check that your assessment is comprehensive. This is best illustrated by looking at an activity when more than one of the above regulations apply - for example cutting and laying paving stones in the street. Using *Five steps* and another HSE publication, *Essentials of health and safety at work* as guides, you would have found out that:

(a) harm to people could arise as follows:

(i) to your workers from:

- noise and vibration from the stone cutting equipment;
- exposure to dust (a substance hazardous to health) from cutting the paving stones;
- manual handling of the paving stones causing back strain, or foot injury through dropping the load;
- electric shock from portable power tools; and
- tripping over poorly stored material.

(ii) to members of the public from:

- noise and dust from the stone cutting; and
- tripping over poorly stored material or uneven surfaces, for example from unfinished work left at the end of the day.

(In a real situation, there may well be more and/or different hazards to consider. The points (i) and (ii) are not meant to be comprehensive and have been chosen for the purpose of illustration).

(b) in deciding whether existing precautions are adequate or more should be done you will have to take account of requirements in regulations and what is reasonably practicable in your particular

circumstances. This includes taking account of the risk assessment provisions of the Management, Noise, COSHH, Manual Handling and PPE Regulations.

21 This guide will confirm all that. For example, the table shows that:

- (a) if you have decided that the only way you can reasonably control certain risks is by getting your workers to wear personal protective equipment (eg, safety boots to protect against foot injury, respiratory protective equipment against dust) you will have to assess the suitability of that equipment for its intended purpose;
- (b) when assessing risks to members of the public, you will have to consider the risk assessment provisions of the Management and COSHH Regulations; and
- (c) you may have to record your noise assessment depending on whether your employees are exposed to the first action level or above, or to the peak action level specified in the Noise Regulations.

FURTHER INFORMATION

22 More information about the process of assessing risks, legal requirements and standards can be found in the HSE publications *Five steps to risk assessment*, *Management of health and safety at work - approved code of practice* and *Essentials of health and safety*. Details of these and of other useful HSE publications are given below.

Five steps to risk assessment INDG163 1998 (available in priced packs ISBN 0 7176 0904 9)

Five steps to risk assessment: case studies HSG183 1998 ISBN 0 7176 1580 4

Essentials of health and safety at work 3rd ed 1994 ISBN 0 7176 0716 X

Management of health and safety at work: Approved Code of Practice L21 1999 ISBN 0 7176 2488 9

A guide to the Health and Safety at Work etc Act 1974 4th ed 1990 ISBN 0 7176 0441 1

COSHH: the new brief guide for employers INDG136 1994 (available in priced packs ISBN 0 7176 2444 7)

General COSHH ACOP and carcinogens ACOP and biological agents ACOP L5 1999 ISBN 0 7176 1670 3
Manual handling: Manual Handling Operations

Regulations 1992: Guidance on the Regulations L23
1998 ISBN 0 7176 2415 3

A short guide to the Personal Protective Equipment at Work Regulations 1992 INDG174 1995 (available in priced packs ISBN 0 7176 0889 1)

Personal protective equipment at work: Guidance on Regulations L25 1992 ISBN 0 7176 0415 2

Working with VDUs INDG36 1998 (available in priced packs ISBN 0 7176 1504 9)

Display screen equipment work: Health and Safety (Display Screen Equipment) Regulations 1992: Guidance on Regulations L26 1992 ISBN 0 7176 0410 1

Asbestos and you INDG107 1996 (available in priced packs ISBN 0 7176 1241 4)

The control of asbestos at work: Control of Asbestos at Work Regulations 1987 L27 1999 ISBN 0 7176 1673 8

Control of lead at work: Approved Code of Practice, Regulations and guidance 1998 ISBN 0 7176 1506 5

The Noise at Work Regulations: a brief guide to the requirements for controlling noise at work INDG75 1995 ISBN 0 7176 0961 8

Reducing noise at work: guidance on the Noise at Work Regulations 1989 L108 1998 ISBN 0 7176 1511 1

Fire safety: an employer's guide 1999
ISBN 0 11 341229 0

order from:

HSE Books
PO Box 1999
Sudbury
Suffolk CO10 2WA
Tel: 01787 881165
Fax: 01787 313995

HSE priced publications are also available from good booksellers.

For other enquiries ring HSE's InfoLine Tel: 0541 545500, or write to HSE's Information Centre, Broad Lane, Sheffield S3 7HQ.

HSE home page on the World Wide Web
<http://www.open.gov.uk/hse/hsehome.htm>

This leaflet contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.

This guide may be freely reproduced, except for advertising, endorsement or commercial purposes. The information it contains is current at 12/99. Please acknowledge the source as HSE.

FEATURES	REGULATIONS								DIFFERENCES IN REQUIREMENTS	PRACTICAL SIGNIFICANCE
	MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1992 (MANAGEMENT REGULATIONS)	MANUAL HANDLING OPERATIONS REGULATIONS 1992 (MANUAL HANDLING REGULATIONS)	PERSONAL PROTECTIVE EQUIPMENT AT WORK REGULATIONS 1992 (PPE)	HEALTH AND SAFETY (DISPLAY SCREEN EQUIPMENT) REGULATIONS 1992 (DISPLAY SCREEN REGULATIONS)	NOISE AT WORK REGULATIONS 1989 (NOISE REGULATIONS)	CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS 1999 (COSHH)	CONTROL OF ASBESTOS AT WORK REGULATIONS 1987 (ASBESTOS REGULATIONS)	CONTROL OF LEAD AT WORK REGULATIONS 1998 (LEAD REGULATIONS)		
Purpose of assessment	To identify measures which need to be taken to comply with the requirements and prohibitions imposed by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997	To consider the questions set out in column 2 of Schedule 1 relating to the factors listed in that schedule	To determine whether the personal protective equipment is suitable	To assess workstations for health and safety risks to which users/operators are exposed	1 To identify which employees and self-employed people are exposed 2 To provide the employer or self-employed person with such information, with regard to the noise, as will aid compliance with Regulations 7, 8, 9 and 11	To identify risk to enable a decision to be made on the measures to take to prevent or adequately control exposures	1 To identify type of asbestos 2 To determine nature and degree of exposure 3 To set out steps to reduce exposure to lowest level reasonably practicable	To assess whether the exposure of any employees to lead is liable to be significant	The stated purpose is different for each set of regulations	Differences are significant in that they determine what ground you have to cover in your assessment. For all hazards, under the Management Regulations, the purpose of the assessment is for you to find out what health and safety measures you have to adopt to comply with legal requirements. If, besides the Management Regulations, one of the other regulations in this table covers the hazard you are considering, you need also to follow its purpose of assessment to determine what measures you have to adopt to meet its detailed legal requirements. If only the Management Regulations apply, you need to consider whether any other regulations with no risk assessment requirement of their own (and so not listed in this table) apply to the hazard. For example, in assessing the risk from using machinery, you need to consider the legal requirements of the Provision and Use of Work Equipment Regulations. If there are no other regulations that apply, your assessment under the Management Regulations need only consider how to ensure health and safety 'so far as is reasonably practicable'.
Who has to assess the risks?	1 Employers 2 Self-employed people	1 Employers 2 Self-employed people	1 Employers 2 Self-employed people	Employers	Employers and self-employed people to ensure a competent person makes the assessment	1 Employers 2 Self-employed people	1 Employers 2 Self-employed people	1 Employers 2 Self-employed people	All the regulations place the duty to make an assessment of risk on employers and the self-employed except: Display Screen Regulations: There is no duty on the self-employed under the Regulations; and Noise Regulations: The duty on employers/self-employed is to ensure a competent person carries out the risk assessment	No significant differences except for the Display Screen Regulations, ie: The difference under the Display Screen Regulations is significant; if you are self-employed you need not undertake an analysis of work stations as required by the Display Screen Regulations. However, you should satisfy yourself that you have ensured 'so far as is reasonably practicable', that you are not at risk from display screen equipment. The difference under the Noise Regulations is not significant. Every risk assessment should be carried out by a person who is competent, to ensure the assessment achieves its purpose. (You can carry out the risk assessment yourself provided that you have enough knowledge, experience and understanding of health and safety matters.)

FEATURES	REGULATIONS								DIFFERENCES IN REQUIREMENTS	PRACTICAL SIGNIFICANCE
	MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1992 (MANAGEMENT REGULATIONS)	MANUAL HANDLING OPERATIONS REGULATIONS 1992 (MANUAL HANDLING REGULATIONS)	PERSONAL PROTECTIVE EQUIPMENT AT WORK REGULATIONS 1992 (PPE)	HEALTH AND SAFETY (DISPLAY SCREEN EQUIPMENT) REGULATIONS 1992 (DISPLAY SCREEN REGULATIONS)	NOISE AT WORK REGULATIONS 1989 (NOISE REGULATIONS)	CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS 1999 (COSHH)	CONTROL OF ASBESTOS AT WORK REGULATIONS 1987 (ASBESTOS REGULATIONS)	CONTROL OF LEAD AT WORK REGULATIONS 1998 (LEAD REGULATIONS)		
Whose risk should be assessed?	1 Employees (at work) 2 Self-employed people (at work) 3 People not in employment who may face risks arising out of or in connection with the conduct by the employer or self-employed person of his undertaking	Manual handling operations to be undertaken by employees or self-employed people	Personal protective equipment (PPE) which an employer or self-employed person is required to ensure is provided	Workstations which: 1 are used by employees who habitually use display screen equipment as a significant part of their normal work; or 2 have been provided to operators (self-employed people who habitually use display screen equipment as a significant part of their normal work)	Employees and the self-employed Any other person at work who may be affected by the employer's work	Employees and the self-employed liable to be exposed to substances hazardous to health by any work Other people who may be affected by the employer's work	1 Employees 2 Self-employed 3 Other people who may be affected by the work activity	1 Employees 2 Self-employed 3 Other people who may be affected by the work activity	Assess the risks in relation to: (a) Employees - required by all regulations. (b) Self-employed (ie self-assessment) - required by all regulations except the Display Screen Regulations (employers have to assess the risk to the self-employed under the Display Screen Regulations). (c) Others who are affected by the process, such as other people at work, members of the public - not required by the Manual Handling Regulations, Display Screen Regulations and PPE (the Noise Regulations are concerned only with other people at work, ie not members of the public).	The differences are significant. The risk to a person from the same hazard can be assessed in rather more detail depending on which of the regulations that person is covered by. You must assess the risk from <i>noise</i> to your employees and others at work on the basis of the requirements of the Noise Regulations, but for members of the public who are not covered by the Noise Regulations, you could assess their risk on the basis of what is 'so far as is reasonably practicable' under the Management Regulations. You must assess the <i>manual handling</i> operations undertaken by your employees, or the <i>personal protective equipment</i> they wear, or the display screen equipment they use on the basis of the specific regulations. But for anyone else affected, you need only consider what is 'so far as is reasonably practicable' under the Management Regulations.
What risks should be assessed?	Risks to health and safety: 1 to which employees and the self-employed are exposed while at work; and 2 to which third parties are exposed arising out of or in connection with the conduct of the undertaking	Manual handling operations which involve a risk of injury (with regard to factors - task, load, working environment, individual capability, other factors - listed in Schedule 1)	Risks to health and safety which have not been avoided by other means Assessment includes: 1 definition of the characteristics which the PPE must have in order to be effective against the risks (taking into account any risks which the equipment itself may create) 2 comparison of the characteristics of the PPE available with the required characteristics	Risks to health and safety to which users and operators are exposed in consequence of using the workstations	Exposure to noise	Risks to health resulting from work which involves exposure to substances hazardous to health Assessment should include the steps that need to be taken to comply with other requirements of the regulations	Exposure of people to asbestos	Exposure of people to lead	Each of the regulations requires risks from different specific hazards to be assessed, except for the Management Regulations which cover hazards in a general way. The assessment under PPE is aimed at achieving a correct choice of equipment, ie assessing suitability of the control measure rather than risk (though the risk from the equipment itself must be taken into account). Similarly, COSHH also requires an assessment of suitability of the control measures to be adopted, in addition to a risk assessment.	The differences between regulations are significant in that they point to the different hazards to be covered. The difference between the Management Regulations and the other regulations is significant in that hazards, whether or not covered by the other regulations, will fall in any case under the Management Regulations. However, it does not mean that you have to assess a hazard twice, once under the Management Regulations and once under the other regulations; one assessment is all that you need to do. The differences are not significant. In practice you need to assess the suitability of control measures identified in assessments under the Management Regulations to see whether they enable you to comply with legal requirements, and the same is true for assessments under the other regulations. In PPE, the assessment of risks 'not avoided by other means' should have been done previously under other regulations, so as to reach the position where personal protective equipment is deemed to be necessary. Thus no additional risk assessment is required.
How thorough should your assessment be?	Suitable and sufficient	Suitable and sufficient		Suitable and sufficient	Adequate	Suitable and sufficient	Adequate	Suitable and sufficient	Risk assessments are required to be either 'suitable and sufficient' or 'adequate'.	Differences are not significant, and the terms used are broadly synonymous. You need to ensure that all risk assessments are done well enough to achieve the purpose stated in the regulations (see above).

FEATURES	REGULATIONS								DIFFERENCES IN REQUIREMENTS	PRACTICAL SIGNIFICANCE
	MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1992 (MANAGEMENT REGULATIONS)	MANUAL HANDLING OPERATIONS REGULATIONS 1992 (MANUAL HANDLING REGULATIONS)	PERSONAL PROTECTIVE EQUIPMENT AT WORK REGULATIONS 1992 (PPE)	HEALTH AND SAFETY (DISPLAY SCREEN EQUIPMENT) REGULATIONS 1992 (DISPLAY SCREEN REGULATIONS)	NOISE AT WORK REGULATIONS 1989 (NOISE REGULATIONS)	CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS 1999 (COSHH)	CONTROL OF ASBESTOS AT WORK REGULATIONS 1987 (ASBESTOS REGULATIONS)	CONTROL OF LEAD AT WORK REGULATIONS 1998 (LEAD REGULATIONS)		
When to assess		Make assessment of all such manual handling operations to be undertaken which involve risk of injury where it is not reasonably practicable to avoid the need for employees or self-employed people to undertake those manual handling operations	Assessment to be made before choosing any personal protective equipment which has to be provided		Assessment to be made when any employee or self-employed person is likely to be exposed to the first action level or above or to the peak action level or above	Assessment to be made before work begins	Assessment to be made before work begins	Assessment to be made before work begins	PPE, COSHH, Asbestos Regulations and Lead Regulations clearly require, and Noise Regulations, Manual Handling Regulations imply, assessments before the event. Management Regulations and Display Screen Regulations make no explicit specification.	Differences are not significant. All your assessments need to be done beforehand so that you can put the control measures, as determined by your assessment, in place from the start.
Recording the assessment a) When? b) What? c) How long to be kept?	(a) If five or more employees (b) Significant findings and any group of employees especially at risk				(a) After every assessment (c) Record to be kept until a further assessment is made	No explicit recording requirement but certain records related to assessment to be kept: (b) Health record to be made relating to each employee exposed (c) To be kept for at least 40 years from last entry	No explicit recording requirement but certain records related to assessment to be kept: (b) Health record to be made relating to each employee exposed (c) To be kept for at least 40 years from last entry	No explicit recording requirement but certain records related to assessment to be kept: (b) Health record to be made relating to each employee exposed (c) To be kept for at least 40 years from last entry	(a) Only Management Regulations and Noise Regulations have explicit requirements to record assessment. Noise Regulations - record of every assessment carried out; Management Regulations - record of every assessment if five or more employed. (b) Noise Regulations - 'adequate record', Management Regulations - 'significant findings'. (c) Only Noise Regulations have an explicit requirement for keeping records.	As the Management Regulations cover all risks, you must at least meet their record provision in all your assessments. (a) The differences are significant. You have to meet the different requirements of the Noise Regulations if they apply to the hazard you are assessing. (b) Differences not significant. Your record of any assessment must contain significant findings to be adequate. (c) The differences are significant in that you must keep the records explicitly required but have a choice otherwise.
Reviewing the assessment	Review assessment if: 1 reason to suspect it is no longer valid 2 there has been a significant change Changes to assessment to be made where required	Review assessment if: 1 reason to suspect it is no longer valid 2 there has been a significant change Changes to assessment to be made where required	Review assessment if: 1 reason to suspect it is no longer valid 2 there has been a significant change Changes to assessment to be made where required	Review assessment if: 1 reason to suspect it is no longer valid 2 there has been a significant change Changes to assessment to be made where required	Review assessment if: 1 reason to suspect it is no longer valid 2 there has been a significant change Changes to assessment to be made where required	Review assessment: 1 regularly; and if 2 reason to suspect assessment is no longer valid 3 there has been a significant change Changes to assessment to be made where required	Review assessment: 1 regularly; and if 2 reason to suspect assessment is no longer valid 3 there has been a significant change New assessment substituted	No explicit requirement but Management Regulations requirements apply	'Regularly' COSHH and Asbestos Regulations only. 'Suspect no longer valid' - all regulations. 'There has been a significant change' - all regulations. Though not explicitly specified in any of the regulations, inspectors have the power to issue a Notice requiring a review of any assessment if they have reasonable grounds to believe the other review provisions are not being met. All regulations, except the Asbestos Regulations, require 'changes in the assessment to be made where required'. The Asbestos Regulations require a 'new assessment substituted'.	The requirement to review 'regularly' in the COSHH and Asbestos Regulations is a significant difference since, unlike the other provisions, it requires you to plan the review in advance. The other differences are not significant.