

**LEAFLET 43****THE MANAGEMENT OF HEALTH AND SAFETY AT WORK****CONTENTS**

## Para

**LEAFLET FOR LINE MANAGERS**

- 1 Statutory requirement
- Definitions
- 2 Line Manager
- 3 Employee
- 4 Pregnant Worker
- 5 Introduction
- Duties
- 8 Line Managers
- 9 Employees
- 10 Records
- 11 Competence
- 12 Related leaflets

## Annex

- A Guidance for Line Managers

**LEAFLET FOR LINE MANAGERS****STATUTORY REQUIREMENT**

1 This document contains advice on how to comply with duties under the Management of Health and Safety at Work Regulations 1999 (MHSWR).

**DEFINITIONS****Line Manager**

2 Line Manager means all staff, both Service and Civilian, who have authority and responsibility for directing and supervising people working for them, be they permanent, temporary or contractually employed.

**Employee**

3 Employee means any person who has a contract of employment with the MOD, be they Service or Civilian, of any rank or grade, on a full time, or part time basis.

**Pregnant Worker**

4 Pregnant Workers are new or expectant mothers, and workers who have given birth (to a living child or, after 24 weeks of pregnancy, a stillborn child) within the previous 6 months or are breast feeding.

**INTRODUCTION**

5 The MHSWR requires all employers to have arrangements in place to effectively manage health and safety within their organisation.

6 The duties under the MHSWR may overlap with other regulations because of their wide-ranging general nature. Where duties overlap, compliance with the more specific regulation will normally be sufficient to comply with the corresponding duty in the Management Regulations. For example, the Control of Substances Hazardous to Health Regulations (COSHH) require employers and the self-employed to assess the risks from exposure to substances hazardous to health. An assessment made for the purposes of COSHH will not need to be repeated for the purposes of the Management Regulations. Other instances where overlap may occur include the appointment of people to carry out specific tasks or arrangements for emergencies. However, where the duties in the Management Regulations go beyond those in the more specific regulations, additional measures will be needed to comply fully with the Management of Health and Safety at Work Regulations.

7 The main areas where duties are placed include:

- 7.1 Risk assessment
- 7.2 Principles of prevention to be applied
- 7.3 Health and safety arrangements
- 7.4 Health surveillance
- 7.5 Health and safety assistance
- 7.6 Procedures for serious and imminent danger and for danger areas
- 7.7 Contacts with external services
- 7.8 Information for employees
- 7.9 Co-operation and co-ordination
- 7.10 Persons working in host employers' or self-employed persons' undertakings
- 7.11 Capabilities and training
- 7.12 Employees' duties
- 7.13 Temporary workers
- 7.14 Risk assessment in respect of new or expectant mothers
- 7.15 Certificate from registered medical practitioner in respect of new or expectant mothers
- 7.16 Notification by new or expectant mothers
- 7.17 Protection of young persons
- 7.18 Exemption certificates
- 7.19 Extension outside Great Britain

## **DUTIES**

### **Line Managers**

8 Line Managers must ensure compliance with the requirements of the MHSWR within the limits of the authority, taking particular note of the requirements for pregnant workers, young persons and persons not in MoD employment.

**Employees**

9 Employees must co-operate with their line management to ensure full compliance with the MHSWR.

**RECORDS**

10 Records required under specific related leaflets would be sufficient to comply with this requirement.

**COMPETENCE**

11 Competencies stated under specific related leaflets will be sufficient to comply with this requirement.

**RELATED LEAFLETS**

12 Related leaflets

- Leaflet - Health and Safety Risk Assessment
- Leaflet - Working with Display Screen Equipment
- Leaflet - Manual Handling
- Leaflet - Substances Hazardous to Health
- Leaflet - The Management of Contractors and other Visiting Workers (including MOD agencies) within the MOD
- JSP 375 Vol 1 Health & Safety of those not in MOD employment – Chap 9
- JSP 375 Vol 1 MOD Health and Safety training strategy – Chap 13
- JSP 375 Vol 1 Safety Advisers in Establishments, Units and Sites – Chap 15

**LEAFLET 43 ANNEX A****THE MANAGEMENT OF HEALTH AND SAFETY AT WORK****CONTENTS**

## Para

	<b>GUIDANCE FOR LINE MANAGERS</b>
1	Introduction
3	Suitable and sufficient assessment of the risks to health and safety
10	Risk assessment in respect of new or expectant mothers
14	Protection of young persons
18	Health and safety arrangements
19	Planning
20	Organisation
21	Control
22	Monitoring
25	Review
27	Health surveillance
32	Health and safety assistance
41	Procedures for serious and imminent danger and for danger areas
52	Contacts with external services
54	Information for employees
59	Co-operation and co-ordination
67	Persons not employed by MOD working in MOD establishments
71	Capabilities and training
76	Employees' duties
79	Temporary workers
84	Exemption certificates
87	Employers' liability
89	Exclusion of civil liability

**GUIDANCE FOR LINE MANAGERS****INTRODUCTION**

1 This document contains guidance on how the MOD will comply with its duties under the Management of Health and Safety at Work Regulations 1999 (MHSWR). The following should be considered as the minimum standard to be achieved by the MOD with respect to these regulations.

2 It is worthwhile noting that that even if people working under the control and direction of the MOD are treated as self-employed for tax and National Insurance purposes they may nevertheless need to be treated as employees for health and safety purposes. It may therefore be necessary to take the same actions to protect them as we will take to protect our own staff. If any doubt exists about who is responsible for the health and safety of a worker this should be clarified and included in the terms of the contract. However remember that a legal duty under section 3 of the Health and Safety at Work etc Act 1974 (HASW Act), to protect the health and safety of others who might be affected by our activities and this cannot be passed on by means of a contract. There will still be duties towards others under section 3 of HASW Act. If such workers are employed on the basis that they are responsible for their own health and safety and advice should be sought before doing so.

**SUITABLE AND SUFFICIENT ASSESSMENT OF THE RISKS TO HEALTH AND SAFETY**

3 The requirement for employers to assess the risks associated with their activities was implied within the HSW Act and subsequently made explicit under the MHSWR. The requirement is for the MOD, as with all other employers, to make a suitable and sufficient assessment of:

- 3.1 The risks to the health and safety of our employees to which they are exposed whilst they are at work; and
  - 3.2 The risks to the health and safety of persons not in our employment arising from our activities,
- 4 The fundamental purpose of the assessment is to identify the measures we need to take to comply with the requirements and prohibitions imposed upon us by or under the relevant statutory provisions. In order to ensure that these assessment remain valid they will be reviewed if:
- 4.1 There is reason to suspect that it is no longer valid; or
  - 4.2 There has been a significant change in the matters to which it relates; and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them.
- 5 The risk assessment should identify the risks arising from or in connection with work with the level of detail in a risk assessment should be proportionate to the risk. Once the risks are assessed and taken into account, insignificant risks can usually be ignored, as can risks arising from routine activities associated with life in general, unless the work activity compounds or significantly alters those risks. The level of risk arising from the work activity should determine the degree of sophistication of the risk assessment. The MOD methodology to be used for general workplace risk assessments is contained within Leaflet - Health and Safety Risk Assessment.
- 6 However large and hazardous sites will require a more developed and sophisticated risk assessment, particularly where there are complex or novel processes. In the case of certain manufacturing sites who use or store bulk hazardous substances or nuclear plant, the risk assessment will be a significant part of the safety case or report which is legally required and may incorporate such techniques as quantified risk assessment. A number of other statutory requirements exist e.g. Nuclear installations licensing arrangements, which include more specific and detailed arrangements for risk assessment.
- 7 Whichever method is used the risk assessment process needs to be practical and take account of the views of employees and their safety representatives who will have practical knowledge to contribute. It should involve management, whether or not advisers or consultants assist with the detail. Line managers should ensure that those involved take all reasonable care in carrying out the risk assessment.
- 8 Principles of prevention to be applied in identifying the appropriate control measures are set out below and the MOD will use these to direct their approach to identifying and implementing the necessary measures.
- 8.1 If possible avoid a risk altogether, e.g. do the work in a different way, taking care not to introduce new hazards;
  - 8.2 Evaluate risks that cannot be avoided by carrying out a risk assessment;
  - 8.3 Combat risks at source, rather than taking palliative measures. so, if the steps are slippery, treating or replacing them is better than displaying a warning sign;
  - 8.4 Adapt work to the requirements of the individual (consulting those who will be affected when designing workplaces, selecting work and personal protective equipment and drawing up working and safety procedures and methods of production). aim to alleviate monotonous work and paced working at a predetermined rate, and increase the control individuals have over work they are responsible for;
  - 8.5 Take advantage of technological and technical progress, which often offers opportunities for improving working methods and making them safer;

8.6 Implement risk prevention measures to form part of a coherent policy and approach. This will progressively reduce those risks that cannot be prevented or avoided altogether, and will take account of the way work is organised, the working conditions, the environment and any relevant social factors. Health and safety policy statements required under section 2(3) of the HSW Act should be prepared and applied by reference to these principles;

8.7 Give priority to those measures which protect the whole workplace and everyone who works there, and so give the greatest benefit (i.e. give collective protective measures priority over individual measures);

8.8 Ensure that workers, whether employees or self-employed, understand what they must do;

8.9 The existence of a positive health and safety culture should exist within an organisation. That means the avoidance, prevention and reduction of risks at work must be accepted as part of the organisation's approach and attitude to all its activities. It should be recognised at all levels of the organisation, from junior to senior management.

9 These are general principles rather than individual prescriptive requirements, they should, however, be applied wherever it is reasonable to do so. Experience suggests that in the majority of cases, adopting good practice will be enough to ensure risks are reduced sufficiently. Authoritative sources of good practice are prescriptive legislation, Approved Codes of Practice and guidance produced by government and HSE inspectors. Other sources include standards produced by standard-making organisations e.g. British Standards Institute (BSI), and guidance agreed by a body representing an industrial or occupational sector, provided the guidance has gained general acceptance. Where established industry practices result in high levels of health and safety, risk assessment should not be used to justify reducing current control measures.

#### **RISK ASSESSMENT IN RESPECT OF NEW OR EXPECTANT MOTHERS**

10 Where the risk assessment identifies risks to new and expectant mothers and these risks cannot be avoided by the preventive and protective measures taken by an employer, the line manager will need to:

10.1 Alter her working conditions or hours of work if it is reasonable to do so and would avoid the risks or, if these conditions cannot be met;

10.2 Identify and offer her suitable alternative work that is available, and if that is not feasible;

10.3 Suspend her from work. The employment rights act 1996 (which is the responsibility of the department of trade and industry) requires that this suspension should be on full pay. Employment rights are enforced through the employment tribunals.

11 Line managers should take account of women of child-bearing age when carrying out the risk assessment and identify the preventive and protective measures that are required. The additional steps of altering working conditions or hours of work, offering suitable alternative work or suspension may be taken once an employee has given the MOD notice in writing that she is pregnant, has given birth within the last six months or is breastfeeding. If the employee continues to breastfeed for more than six months after the birth she should ensure the line manager is informed of this, so that the appropriate measures can continue to be taken. Line managers need to ensure that those workers who are breastfeeding are not exposed to risks that could damage their health and safety as long as they breastfeed. If the employee informs the MOD that she is pregnant for the purpose of any other statutory requirements, such as statutory maternity pay, this will be sufficient for this purpose.

12 Once the MOD has been informed in writing that an employee is a new or expectant mother, the line manager needs to immediately put into place the steps described above. The MOD may request confirmation of the pregnancy by means of a certificate from a registered medical practitioner or a registered midwife in writing. If this certificate has not been produced within a reasonable period of time, the MOD is not bound to maintain changes to working hours or conditions or to maintain paid leave. A reasonable period of time will allow for all necessary medical examinations and tests to be completed.

13 Full details are contained within Leaflet - New and Expectant Mothers at Work.

### **PROTECTION OF YOUNG PERSONS**

14 The MOD needs to carry out the risk assessment before young workers start work and to see where risk remains, taking account of control measures in place, for young workers, the risk assessment needs to pay attention to areas of risk described below;

14.1 Which is beyond his physical or psychological capacity;

14.2 Involving harmful exposure to agents which are toxic or carcinogenic, cause heritable genetic damage or harm to the unborn child or which in any other way chronically affect human health;

14.3 Involving harmful exposure to radiation;

14.4 Involving the risk of accidents which it may reasonably be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or

14.5 In which there is a risk to health from:

14.5.1 Extreme cold or heat;

14.5.2 Noise; or

14.5.3 Vibration,

15 For several of these areas the line manager will need to assess the risks with the control measures in place under other statutory requirements.

16 When control measures have been taken against these risks and if a significant risk still remains, no child (young worker under the compulsory school age) can be employed to do this work. A young worker, above the minimum school leaving age, cannot do this work unless:

16.1 It is necessary for his or her training; and

16.2 She or he is supervised by a competent person; and

16.3 The risk will be reduced to the lowest level reasonably practicable.

17 Full details are contained within Leaflet - The Health and Safety of Young Persons.

### **HEALTH AND SAFETY ARRANGEMENTS**

18 The MHSWR requires the MOD to have effective arrangements in place to cover health and safety. Effective management of health and safety will depend, amongst other things, on a suitable and sufficient risk assessment being carried out and the findings being used effectively. The health and safety arrangements can be integrated into the management system for all other aspects of the organisation's activities. The management system adopted will need to reflect the complexity of the organisation's activities and working environment. Where the work process is straightforward and the risks generated are relatively simple to control, then very straightforward management systems may be appropriate. For large complicated organisations more complex systems may be appropriate. Although the principles of the management arrangements are the same irrespective of the size of an organisation. The key elements of such effective systems can be found in successful health and safety management (HS(G)65) or the British Standard for health and safety management systems BS8800. A successful health and safety management system will include all the following elements.

## Planning

19 Requires the set of up an effective health and safety management system to implement their health and safety policy, which is proportionate to the hazards and risks. Adequate planning includes:

19.1 Adopting a systematic approach to the completion of a risk assessment. Risk assessment methods should be used to decide on priorities and to set objectives for eliminating hazards and reducing risks. This should include a programme, with deadlines for the completion of the risk assessment process, together with suitable deadlines for the design and implementation of the preventive and protective measures which are necessary;

19.2 Selecting appropriate methods of risk control to minimise risks;

19.3 Establishing priorities and developing performance standards both for the completion of the risk assessment(s) and the implementation of preventive and protective measures, which at each stage minimises the risk of harm to people. Wherever possible, risks are eliminated through selection and design of facilities, equipment and processes.

## Organisation

20 Effective organisation for health and safety includes:

20.1 Involving employees and their representatives in carrying out risk assessments, deciding on preventive and protective measures and implementing those requirements in the workplace. This may be achieved by the use of formal health and safety committees where they exist, and by the use of teamworking, where employees are involved in deciding on the appropriate preventive and protective measures and written procedures etc;

20.2 Establishing effective means of communication and consultation in which a positive approach to health and safety is visible and clear. The employer should have adequate health and safety information and make sure it is communicated to employees and their representatives, so informed decisions can be made about the choice of preventive and protective measures. Effective communication will ensure that employees are provided with sufficient information so that control measures can be implemented effectively;

20.3 Securing competence by the provision of adequate information, instruction and training and its evaluation, particularly for those who carry out risk assessments and make decisions about preventive and protective measures. Where necessary this will need to be supported by the provision of adequate health and safety assistance or advice.

## Control

21 Establishing control includes:

21.1 Clarifying health and safety responsibilities and ensuring that the activities of everyone are well co-ordinated;

21.2 Ensuring everyone with responsibilities understands clearly what they have to do to discharge their responsibilities, and ensure they have the time and resources to discharge them effectively;

21.3 Setting standards to judge the performance of those with responsibilities and ensure they meet them. It is important to reward good performance as well as to take action to improve poor performance; and

21.4 Ensuring adequate and appropriate supervision, particularly for those who are learning and who are new to a job.

## Monitoring

22 The MOD should measure what they are doing to implement their health and safety policy, to assess how effectively they are controlling risks, and how well they are developing a positive health and safety culture. Monitoring includes:

22.1 Having a plan and making adequate routine inspections and checks to ensure that preventive and protective measures are in place and effective. Active monitoring reveals how effectively the health and safety management system is functioning;

22.2 Adequately investigating the immediate and underlying causes of incidents and accidents to ensure that remedial action is taken, lessons are learnt and longer-term objectives are introduced.

23 In both cases it may be appropriate to record and analyse the results of monitoring activity, to identify any underlying themes or trends which may not be apparent from looking at events in isolation.

24 Safety representatives' experience of workplace conditions and their commitment to health and safety means they often identify potential problems, allowing the employer to take prompt action. They can also have an important part to play in explaining safety measures to the workforce and gaining commitment.

## Review

25 Review processes involves:

25.1 Establishing priorities for necessary remedial action that were discovered as a result of monitoring to ensure that suitable action is taken in good time and is completed;

25.2 Periodically reviewing the whole of the health and safety management system including the elements of planning, organisation, control and monitoring to ensure that the whole system remains effective.

26 Consulting employees or their representatives about matters to do with their health and safety is good management practice, as well as being a requirement under health and safety law. Employees are a valuable source of information and can provide feedback about the effectiveness of health and safety management arrangements and control measures. Where safety representatives exist, they can act as an effective channel for employees' views.

## HEALTH SURVEILLANCE

27 The MOD will ensure that employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment. The risk assessment will identify circumstances in which health surveillance is required by specific health and safety regulations e.g. Substances Hazardous to Health (SHH) (See Leaflet - Substances Hazardous to Health) health surveillance should also be introduced where the assessment shows the following criteria to apply:

27.1 There is an identifiable disease or adverse health condition related to the work concerned; and

27.2 Valid techniques are available to detect indications of the disease or condition; and

27.3 There is a reasonable likelihood that the disease or condition may occur under the particular conditions of work; and

27.4 Surveillance is likely to further the protection of the health and safety of the employees to be covered.

28 Those employees concerned and their safety or other representatives should be given an explanation of, and opportunity to comment on, the nature and proposed frequency of such health surveillance procedures and should have access to an appropriately qualified practitioner for advice on surveillance.

29 The appropriate level, frequency and procedure of health surveillance should be determined by a competent person acting within the limits of their training and experience. This could be determined on the basis of suitable general guidance (e.g. regarding skin inspection for dermal effects) but in certain circumstances this may require the assistance of a qualified medical practitioner. The minimum requirement for health surveillance is keeping a health record. Once it is decided that health surveillance is appropriate, it should be maintained throughout an employee's employment unless the risk to which the worker is exposed and associated health effects are rare and short term.

30 Where appropriate, health surveillance may also involve one or more health surveillance procedures depending on suitability in the circumstances if the worker is exposed to noise or hand-arm vibrations, health surveillance may be needed under these regulations. If the worker is exposed to hazardous substances such as chemicals, solvents, fumes, dusts, gases and vapours, aerosols, biological agents (micro-organisms), health surveillance may be needed under SHH. If the worker is exposed to asbestos, lead, work in compressed air, medical examinations may be needed under specific regulations. Such procedures could include:

30.1 Inspection of readily detectable conditions by a responsible person acting within the limits of their training and experience;

30.2 Enquiries about symptoms, inspection and examination by a qualified person such as an occupational health nurse;

30.3 Medical surveillance, which may include clinical examination and measurement of physiological or psychological effects by an appropriately qualified person;

30.4 Biological effect monitoring, i.e. the measurement and assessment of early biological effects such as diminished lung function in exposed workers; and

30.5 Biological monitoring, i.e. the measurement and assessment of workplace agents or their metabolites either in tissues, secreta, excreta, expired air or any combination of these in exposed workers.

31 The primary benefit, and therefore objective of health surveillance should be to detect adverse health effects at an early stage, thereby enabling further harm to be prevented. the results of health surveillance can provide a means of:

31.1 Checking the effectiveness of control measures;

31.2 Providing feedback on the accuracy of the risk assessment; and

31.3 Identifying and protecting individuals at increased risk because of the nature of their work.

#### **HEALTH AND SAFETY ASSISTANCE**

32 The MOD must appoint an appropriate number of competent persons to assist in undertaking the measures he needs to take to comply with the requirements placed on it by and law. These persons must have the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the number and risks to which the employees are exposed and the distribution of those risks throughout the undertaking.

33 The MOD is solely responsible for ensuring that those they appoint to assist them with health and safety measures are competent to carry out the tasks they are assigned and are given adequate information and support. In making decisions on who to appoint, line managers themselves need to know and understand the work involved, the principles of risk assessment and prevention, and current legislation and health and safety standards. Managers should ensure that anyone they appoint is capable of applying the above to whatever task they are assigned.

34 Managers in the MOD must have access to competent help in applying the provisions of health and safety law. In particular they need competent help in devising and applying protective measures, unless they are competent to undertake the measures without assistance. Appointment of competent people for this purpose should be included among the health and safety arrangements detailed above. The MOD are also required by the safety representatives and safety committees regulations 1977 to consult safety representatives in good time on arrangements for the appointment of competent assistance.

35 When seeking competent assistance managers should look to appoint one or more of their employees, with the necessary means, or themselves, to provide the health and safety assistance required. If there is no relevant competent worker in the organisation or the level of competence is insufficient to assist the employer in complying with health and safety law, the employer should enlist an external service or person. In some circumstances a combination of internal and external competence might be appropriate, recognising the limitations of the internal competence. Some regulations contain specific requirements for obtaining advice from competent people to assist in complying with legal duties. For example the ionising radiation regulations requires the appointment of a radiation protection adviser in many circumstances, where work involves ionising radiation's.

36 MOD departments who appoint doctors, nurses or other health professionals to advise them of the effects of work on employee health, or to carry out certain procedures, for example health surveillance, should first check that such providers can offer evidence of a sufficient level of expertise or training in occupational health. Registers of competent practitioners are maintained by several professional bodies, and are often valuable.

37 However the appointment of such health and safety assistants or advisers does not absolve the MOD or individual line managers from responsibilities for health and safety under the HSW act and other relevant statutory provisions and under part ii of the fire regulations. It can only give added assurance that these responsibilities will be discharged adequately. Where external services are employed, they will usually be appointed in an advisory capacity only.

38 The issue of competence in the sense it is used in this leaflet does not necessarily depend on the possession of particular skills or qualifications. Simple situations may require only the following:

38.1 An understanding of relevant current best practice;

38.2 An awareness of the limitations of one's own experience and knowledge; and

38.3 The willingness and ability to supplement existing experience and knowledge, when necessary by obtaining external help and advice.

39 In more complicated situations will require the competent assistant to have a higher level of knowledge and experience. More complex or highly technical situations will call for specific applied knowledge and skills which can be offered by appropriately qualified specialists.

40 Managers are advised to check the appropriate health and safety qualifications (some of which may be competence-based and/or industry specific), or membership of a professional body or similar organisation (at an appropriate level and in an appropriate part of health and safety) to satisfy themselves that the assistant they appoint has a sufficiently high level of competence. Competence-based qualifications accredited by the qualifications and curriculum authority and the Scottish qualifications authority may also provide a guide. (See JSP 375 Vol 1 Chap 15 - Safety Advisers in Establishments, Units and Sites)

**PROCEDURES FOR SERIOUS AND IMMINENT DANGER AND FOR DANGER AREAS**

41 Managers within the MOD will need to establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work by;

41.1 Nominating a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation from premises of persons at work in his undertaking (competent for the purposes of paragraph is where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures) and

41.2 Ensure that none of his employees has access to any area occupied by him to which it is necessary to restrict access on grounds of health and safety unless the employee concerned has received adequate health and safety instruction.

42 These procedures will;

42.1 So far as is practicable, require any persons at work who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

42.2 Enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and

42.3 Save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

43 Procedures should cater for the fact that emergency events can occur and develop rapidly, thus requiring employees to act without waiting for further guidance. It may be necessary to commence evacuation while attempts to control an emergency (e.g. a process in danger of running out of control) are still under way, in case those attempts fail.

44 These emergency procedures should normally be written down, clearly setting out the limits of actions to be taken by employees. Information on the procedures should be made available to all employees and to any external health and safety personnel necessary, and where necessary to other workers and/or their employers. Induction training should cover emergency procedures and should familiarise employees with those procedures.

45 Work should not be resumed after an emergency if a serious danger remains. If there are any doubts, expert assistance should be sought, e.g. from the emergency services and others. There may, for certain groups of workers, be exceptional circumstances when re-entry to areas of serious danger may be deemed necessary, e.g. police officers, fire-fighters and other emergency service workers, where, for example, human life is at risk. When such exceptional circumstances can be anticipated, the procedures should set out the special protective measures to be taken (and the pre-training required) and the steps to be taken for authorisation of such actions.

46 The procedure for any worker to follow in serious and imminent danger, has to be clearly explained by the employer. Employees and others at work need to know when they should stop work and how they should move to a place of safety. In some cases this will require full evacuation of the workplace; in others it might mean some or all of the workforce moving to a safer part of the workplace.

47 The risk assessment should identify the foreseeable events that need to be covered by these procedures. For some employers, fire (and possibly bomb) risks will be the only ones that need to be covered. For others, additional risks will be identified.

48 Where different employers (or self-employed people) share a workplace, their separate emergency procedures will need to take account of everyone in the workplace, and as far as is appropriate the procedures should be co-ordinated.

49 Detailed requirements on co-operation and co-ordination are covered by the section on Danger areas below.

50 A danger area is a work environment which must be entered by an employee where the level of risk is unacceptable without taking special precaution. Such areas are not necessarily static in that minor alterations or an emergency may convert a normal working environment into a danger area. The hazard involved need not occupy the whole area, as in the case of a toxic gas, but can be localised, e.g. where there is a risk of an employee coming into contact with bare live electrical conductors. The area must be restricted to prevent inadvertent access.

51 This requirement does not specify the precautions to take to ensure safe working in the danger area - this is covered by other legislation. However, once the employer has established suitable precautions the relevant employees must receive adequate instruction and training in those precautions before entering any such danger area.

### **CONTACTS WITH EXTERNAL SERVICES**

52 Managers must ensure that appropriate external contacts are in place to make sure there are effective provisions for first aid, emergency medical care and rescue work, for incidents and accidents which may require urgent action, and/or medical attention beyond the capabilities of on-site personnel. This may only mean making sure that employees know the necessary telephone numbers and, where there is a significant risk, that they are able to contact any help they need. This requirement does not in any way reduce employers' duty to prevent accidents as the first priority.

53 Where a number of employers share a workplace and their employees face the same risks, it would be possible for one employer to arrange contacts on behalf of themselves and the other employers. In these circumstances it would be for the other employers to ensure that the contacts had been made. In hazardous or complex workplaces, employers should designate appropriate staff to routinely contact the emergency services to give them sufficient knowledge of the risks they need to take appropriate action in emergencies, including those likely to happen outside normal working hours. This will help these services in planning for providing first aid, emergency medical care and rescue work, and to take account of risks to everyone involved, including rescuers. Contacts and arrangements with external services should be recorded, and should be reviewed and revised as necessary, in the light of changes to staff, processes and plant, and revisions to health and safety procedures.

### **INFORMATION FOR EMPLOYEES**

54 The MOD will provide employees with comprehensible and relevant information on:

54.1 The risks to their health and safety identified by the assessment; (See Para 3-17)

54.2 The preventive and protective measures;

54.3 Any emergency procedures in force and the nominated persons, who have duties under the emergency procedures.

55 The risk assessment will help identify information, which has to be provided to employees under specific regulations, as well as any further information relevant to risks to employees' health and safety. Relevant information on risks and on preventive and protective measures will be limited to what employees need to know to ensure their own health and safety and not to put others at risk. This regulation also requires information to be provided on any of the emergency arrangements established, including the identity of staff nominated to help if there is an evacuation.

56 The information provided should be pitched appropriately, given the level of training, knowledge and experience of the employee. It should be provided in a form which takes account of any language difficulties or disabilities. Information can be provided in whatever form is most suitable in the circumstances, as long as it can be understood by everyone. For employees with little or no understanding of English, or who cannot read English, employers may need to make special arrangements. These could include providing translation, using interpreters, or replacing written notices with clearly understood symbols or diagrams.

57 This requirement applies to all employees, including trainees and those on fixed-duration contracts. Additional information for employees on fixed-duration contracts is contained in below. Specific requirements relate to the provision of information to safety representatives, and enabling full and effective consultation of employees.

58 While a child (below minimum school leaving age) is at work, the requirements to provide information are the same as for other employees. There is, however, an extra requirement on the employer to provide the parents or guardians of children at work (including those on work experience) with information on the key findings of the risk assessment and the control measures taken, before the child starts work. This information can be provided in any appropriate form, including verbally or directly to the parents or guardians, or in the case of work experience, via an organisation such as the school, the work experience agency, or, if agreed with the parents, via the child him or herself, as long as this is considered a reliable method.

## **CO-OPERATION AND CO-ORDINATION**

59 Where two or more employers (or MoD Units) share a workplace (whether on a temporary or a permanent basis) each such employer (or MoD Unit) shall co-operate with the other(s) so far, as is necessary to enable them to comply with the requirements of the law. (See Leaflet - The Management of Contractors and other Visiting Workers (including MOD agencies) within the MOD)

59.1 Take all reasonable steps to co-ordinate the measures he takes to comply with the requirements

59.2 Take all reasonable steps to inform the other employers (or MoD Units) concerned of the risks to their employees' health and safety arising out of or in connection with the conduct by him of his undertaking.

60 In order to meet the requirements of this leaflet, such as carrying out a risk assessment and establishing procedures to follow serious and dangerous situations, it is necessary to cover the whole workplace to be fully effective. When the workplace is occupied by more than one employer (or MoD Unit), this will require some degree of co-ordination and co-operation. All employers (or MoD Units) and self-employed people involved should satisfy themselves that the arrangements adopted are adequate. Employers (or MoD Units) should ensure that all their employees, but especially the competent people appointed above, are aware of and take full part in the arrangements. Specific co-ordination arrangements may be required by other leaflets.

61 Where a particular employer (or MoD Unit) controls the workplace, others should assist the controlling employer (or MoD Unit) in assessing the shared risks and co-ordinating any necessary measures. In many situations providing information may be sufficient. As the controlling employer (or MoD Unit), who has established site-wide arrangements, will have to inform new employers (or MoD Units) or self-employed people of those arrangements so that they can integrate themselves into the co-operation and co-ordination procedures.

62 Where the activities of different employers (or MoD Units) and self-employed people interact, for example where they share premises or workplaces, they may need to co-operate with each other to make sure their respective obligations are met. This regulation does not extend to the relationship between a MoD Unit and a contractor.

63 The duties to co-operate and co-ordinate measures relate to all statutory duties, except for Part II of the Fire Regulations, in the case of people who are self-employed and are not employers. Therefore, they concern all people who may be at risk, both on and off site, and not just where employers (or MoD Units) and self-employed people share workplaces all the time. They also include situations where an employer may not be physically present at the workplace.

64 Most MoD sites will have a commanding officer or head of establishment, who acts as the controlling employer for MoD. Where there is no controlling employer, the MoD units and the other employers present will need to agree any joint arrangements required to meet the duties of the law, such as appointing a health and safety co-ordinator. This will be particularly useful in workplaces where management control is fragmented and employment is largely casual or short term (e.g. in construction). In workplaces which are complex or contain significant hazards, the controlling employer or health and safety co-ordinator (on behalf of the employers etc present) may need to seek competent advice in making or assisting with the risk assessment and determining appropriate measures. Employers do not absolve themselves of their legal responsibilities by appointing such co-ordinators who provide competent advice.

65 The person in control of a multi-occupancy workplace may not always be an employer of the people working in that workplace or be self-employed, but will still need to co-operate with those occupying the workplace under their control. For example, procedures for authorising or carrying out repairs and Modifications will have to take account of the need for co-operation and exchanges of information. Co-operation is needed to effectively carry out the general duties placed on those people under section 4 of the HSW Act, as well as more specific duties under other Regulations. People who are in control of the premises and make arrangements to co-ordinate health and safety activities, particularly for emergencies, may help employers (or MoD Units) and self-employed people who participate in those arrangements to comply.

66 This regulation does not apply to multi-occupancy buildings or sites, where each unit under the control of an individual tenant employer (or MoD Units) or self-employed person is regarded as a separate workplace. In some cases, however, the common parts of such multi-occupancy sites may be shared workplaces (e.g. a common reception area in an office building) or may be under the control of a person to whom section 4 of the HSW Act applies and suitable arrangements may need to be put in place for these areas.

#### **PERSONS NOT EMPLOYED BY MOD WORKING IN MOD ESTABLISHMENTS**

67 The risk assessment carried out under above will identify risks to people other than MOD employees. This will include other employers' employees and self-employed people working in our areas. Managers need to ensure that comprehensive information on those risks, and the measures taken to control them is given to other employers and self-employed people

68 The MOD must ensure that people carrying out work on their premises receive relevant information. This may be done by either providing them with information directly or by ensuring that their employers provide them with the relevant information. If you rely on their employers to provide information to the visiting employees, then adequate checks should be carried out to ensure that the information is passed on. The information should be sufficient to allow the employer of the visiting employee to comply with their statutory duties, and should include the identity of people nominated by the host employer to help with an emergency evacuation.

69 Information may be provided through a written permit-to-work system. Where the visiting employees are specialists, brought in to do specialist tasks, the host employer's (or MoD Units) instructions need to be concerned with those risks which are peculiar to the activity and premises. The visiting employee may also introduce risks to the permanent workforce (e.g. from equipment or substances they may bring with them). Their employers have a general duty under section 3 of the HSW act to inform the host employer (or MoD Units) of such risks and to co-operate and co-ordinate with the host employer (or MoD Unit) to the extent needed to control those risks.

70 This requirement applies where employees or self-employed people carry out work for an employer other than their own or of another self-employed person. This will include contractors' employees carrying out cleaning, repair, or maintenance work under a service contract; and employees in temporary employment businesses, hired to work under the MOD control. Safety representatives and other employee representatives are often used to ensure information is supplied to everyone who comes on site.

## **CAPABILITIES AND TRAINING**

71 When allocating work to employees, line managers should ensure that the demands of the job do not exceed the employees' ability to carry out the work without risk to themselves or others. Employers (or MoD Units) should take account of the employees' capabilities and the level of their training, knowledge and experience. Managers should be aware of relevant legislation and should be competent to manage health and safety effectively. Employers (or MoD Units) should review their employees' capabilities to carry out their work, as necessary. If additional training, including refresher training, is needed, it should be provided.

72 Health and safety training should take place during working hours. If it is necessary to arrange training outside an employee's normal hours, this should be treated as an extension of time at work. Employees are not required to pay for their own training. Section 9 of the HSW act prohibits employers from charging employees for anything they have to do or are required to do in respect of carrying out specific requirements of the relevant statutory provisions. The requirement to provide health and safety training is such a provision. (See JSP 375 Vol 1 Chap 13)

73 The risk assessment and subsequent reviews of the risk assessment will help determine the level of training and competence needed for each type of work. Competence is the ability to do the work required to the necessary standard. All employees, including senior management, should receive relevant training. This may need to include basic skills training, specific on-the-job training and training in health and safety or emergency procedures. There may be a need for further training e.g. about specific risks, required by other legislation. For those working towards National and Scottish Vocational Qualifications, the Employment National Training Organisation has designed stand-alone training units in health, safety and the environment. These vocational units are for people at work who are not health and safety professionals/specialists.

74 Training needs are likely to be greatest for new employees on recruitment. They should receive basic induction training on health and safety, including arrangements for first-aid, fire and evacuation. Particular attention should be given to the needs of young workers. The risk assessment should identify further specific training needs. In some cases, training may be required even though an employee already holds formal qualifications (e.g. for an update on new technology). Training and competence needs will have to be reviewed if the work activity a person is involved in or the working environment changes. This may include a change of department or the introduction of new equipment, processes or tasks.

75 An employee's competence will decline if skills are not used regularly (e.g. in emergency procedures, operating a particular item of equipment or carrying out a task). Training therefore needs to be repeated periodically to ensure continued competence. This will be particularly important for employees who occasionally deputise for others, home workers and mobile employees. Information from personal performance monitoring, health and safety checks, accident investigations and near-miss incidents can help to establish a suitable period for re-training. Employers are required by the Safety Representatives and Safety Committees Regulations 1997 to consult safety representatives in good time about the planning and organisation of health and safety training required for the employees they represent.

## **EMPLOYEES' DUTIES**

76 Employees' duties under section 7 of the HSW Act include co-operating with their employer to enable the employer to comply with statutory duties for health and safety. Under the MHSWR, employers or those they appoint to assist them with health and safety matters need to be informed without delay of any work situation which might present a serious and imminent danger. Employees should also notify any shortcomings in the health and safety arrangements, even when no immediate danger exists, so that employers can take remedial action if needed.

77 The duties placed on employees do not reduce the responsibility of the employer to comply with duties under these regulations and the other relevant statutory provisions. In particular, employers need to ensure that employees receive adequate instruction and training to enable them to comply with their duties.

78 Employees have a duty under section 7 of the HSW Act to take reasonable care for their own health and safety and that of others who may be affected by their actions or omissions at work. Therefore, employees must use all work items provided by their employer correctly, in accordance with their training and the instructions they received to use them safely.

## **TEMPORARY WORKERS**

79 This requirement supplements previous requirements detailing the provision of information to employees with additional requirements for temporary workers (i.e. those employed on fixed-duration contracts and those employed by employment businesses, but working for the MOD). The use of temporary workers needs to be notified to health and safety staff as necessary.

80 Those on fixed-duration contracts have to be informed of any special occupational qualifications or skills required to carry out the work safely and whether the job is subject to statutory health surveillance. The employment businesses whose employees are working on the premises also has to be informed of any special occupational qualifications or skills required to carry out the work safely and the specific features of the job which might affect health and safety (e.g. work at heights).

81 The person who has an employment business and the user employer both have duties to provide information to the employee. The person with the employment business has a duty to ensure that the information provided by the user employer is given to the employee. The MOD has a duty to check that information provided to an employer (including someone carrying on an employment business) is received by the employee. In addition to the information on qualifications, skills and health surveillance are given directly to employees in an employment business.

82 These duties overlap to make sure the information needs of those working for, but not employed by, user employers are not overlooked. The MOD and people carrying on employment businesses should therefore make suitable arrangements to satisfy themselves that information is provided. In most cases, it may be enough for the MOD to provide information directly to employees. Those carrying on employment businesses will need to satisfy themselves that arrangements for this are adequate. However, basic information on job demands and risks should be supplied to the employment business at an early stage to help select those most suitable to carry out the work.

83 Self-employed people have similar duties to inform employment businesses and the employees of employment businesses who carry out work on their premises. They may also need to agree arrangements with the employment businesses concerned. Self-employed workers hired through employment businesses are entitled to receive health and safety information from the employers or self-employed people for whom they carry out work. However people working under the control and direction of the MOD but are treated as self-employed for other reasons such as tax and National Insurance, are nevertheless treated as their employees for health and safety purposes.

## **EXEMPTION CERTIFICATES**

84 The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt:

84.1 Any of the home forces, any visiting force or any headquarters from those requirements of these regulations which impose obligations other than those concerning the health and safety of a new or expectant mother, or women of child bearing age; or

84.2 Any member of the home forces, any member of a visiting force or any member of a headquarters from the requirements to take reasonable care for their own health and safety.

85 And any exemption such as is specified in sub-paragraph 84.1 or 84.2 may be granted subject to conditions and to a limit of time and may be revoked by the said secretary of state by a further certificate in writing at any time.

86 In this regulation:

86.1 "The home forces" has the same meaning as in section 12 (1) of the visiting forces act 1952;

86.2 "Headquarters" means a headquarters for the time being specified in schedule 2 to the visiting forces and international headquarters (application of law) order 1999;

86.3 "Member of a headquarters" has the same meaning as in paragraph 1(1) of the schedule to the international headquarters and defence organisations act 1964; and

86.4 "Visiting force" has the same meaning as it does for the purposes of any provision of part 'I' of the visiting forces act 1952.

#### **EMPLOYERS' LIABILITY**

87 An employer is not to be afforded a defence for any contravention of his health and safety obligations by reason of any act or default caused by an employee or by a person appointed to give competent advice. It does not affect employees' duties to take reasonable care of their own health and safety and that of others affected by their work activity.

88 In practice enforcers will take account of the circumstances of each case before deciding on the appropriateness of any enforcement action, and who this should be taken against. Where the employer has taken reasonable steps to satisfy him or herself of the competency of the employee or person appointed to provide competent advice or services, this will be taken into account.

#### **EXCLUSION OF CIVIL LIABILITY**

89 Breach of a duty imposed by the MHSWR regulations shall not confer a right of action in any civil proceedings.