

# Accidents In The Workplace

**Accidents in the workplace take place more often than most people realise. It is important that employers are aware of their liabilities and responsibilities to deal with accidents correctly when they happen. Employers have a duty to investigate workplace incidents that resulted, or which could have resulted in an injury. Health and safety laws vary internationally and it is important for international employers to be aware of these variations.**

This article provides an overview of the international occupational health and safety regulatory frameworks and the employer's duties and potential penalties that exist in different jurisdictions.

## United Kingdom

The Health and Safety at Work Act 1974 (HSWA) governs The Occupational Health and Safety rules (OHS) in the UK, along with extensive secondary legislation which give effect to various EU Directives and expand on the provisions of the HSWA.

Employers have a duty to ensure, as far as is reasonably practicable, the health, safety and welfare at work of their employees and others who are affected by the employer's activities. Employees also have a duty to take reasonable care of their own and others health and safety and to cooperate with their employer.

Other employer obligations include:

- Providing and maintaining safe plant and systems of work and reporting accidents
  - Ensuring that articles and substances are safely used, handled, stored and transported
  - Ensuring that employees are provided with training, information, instructions and supervision which allows them to work safely
  - Undergoing risk assessments and providing a safe working environment with adequate facilities for welfare at work
  - Producing a written health and safety policy, if employing five or more employees.
- The main regulator in the UK is the Health and Safety Executive. Failure to comply with the statutory duties imposed on employers can lead to criminal prosecution. Additionally, employers may face civil actions if the common law 'duty of care' to safeguard their employees' safety is breached.

## Ukraine

In Ukraine, OHS are covered by the Labour Code 1971, the Occupational Safety Act

1992, and by secondary legislation, including the Regulation on Investigation and Record of Work Accidents 2011, that apply to both public and private employers.

In the event of a work accident, an employer is obliged to set up a special commission, consisting of at least 3 individuals, to organise an investigation and define the reasons for the accident as soon as practicable. The damage dealt to employees affected by an accident is compensated by the Social Insurance Fund.

The labour collective may establish a health and safety committee that resolves OHS or environmental issues. The committee is made up of representatives of the employer, unions and OHS specialists. However, the committee has the power to make recommendations only.

OHS compliance is controlled by the State Labour Service, the fire service, health and other supervisory authorities, that conduct routine or unscheduled inspections and impose sanctions for breaches of the relevant legislation.

The employers are also responsible for OHS financing making allocations of at least 0.5% from payroll budget of the previous year. To comply with OHS rules, the employers monitor safety policy and prevent health and safety breaches, suspend employees and apply disciplinary sanctions.

## France

OHS rules in France are part of the Labour Code, which transposes European Directive 89/391/EEC of 12 June 1989 into French law. These rules apply to private law employers and 'workers'.

Employers must take any necessary measures to ensure safety and protect the physical and mental health of workers. This includes:

- Taking action to minimise occupational risks and harsh working conditions
- Providing information and training
- Providing suitable arrangements and resources.

The employer must declare any accident of which it has become aware to the social security authorities within 48 hours (not including Sundays and public holidays), by registered letter. The declaration must be made using an official form and sent by registered post, requesting an acknowledgement of receipt.

Even if the employer's opinion is that the injury described by the employee is not linked to work and should not be considered as a work accident, it should, nonetheless, declare it to the social security

authorities. In these circumstances, it is very important that the employer mentions, as a caveat, this disagreement.

In certain circumstances, the employer may be authorised by the social security authorities to record an accident on a special register, instead of making a declaration. This applies to minor accidents resulting in no work stoppage or medical treatment covered by social security.

## Conclusion

Regardless of where a company is based, it is imperative that employers and managers are aware of their responsibilities with regards to managing a safe and user-friendly workplace. If an accident does occur, those responsible should ensure they comply with national legislation, whilst being aware of international regulations to ensure they do not face penalties.

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