Summary of the law on

ACCIDENTS AT WORK

The law says that employers are responsible for the safety of their workers at work. Workers have an obligation to look after themselves as well, but employers have to comply with a number of very specific, legal requirements.

This booklet explains the basic rights to which workers are entitled within the workplace.

- THE LAW
- TIME LIMITS
- PROVING ACCIDENT CLAIMS
- PROVING DISEASE CASES
- COMPENSATION

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Introduction

Workers are protected by a number of regulations, including the Manual Handling Regulations 1992, Workplace (Health, Safety and Welfare) Regulations 1992 and Personal Protective Equipment at Work Regulations 1992.

These Regulations govern workplace health and safety and place legal duties on employers to make sure that they carry out assessments to identify risks to the health and safety of their employees, implement steps to reduce or remove any risks and to generally provide safe work equipment and a safe working environment.

Other Regulations govern health and safety where a worker comes into contact with dangerous chemicals and other harmful substances (The Control of Substances Hazardous to Health Regulations 2002 (COSHH)) or where workers are exposed to loud noise or are expected to use vibrating tools.

If a worker can show that their employer has not complied with some or all of their legal duties or was negligent and therefore to blame in some way for the worker's accident (or disease), then they may be able to claim compensation.

When should workers make their claim?

As soon as possible. When a worker is involved in an industrial accident it is best to report the accident to a manager and put details of the accident into the work accident book and submit a claim as soon as possible.

If a worker delays, there may be problems gathering evidence later. Witnesses may also have problems recollecting precisely what happened and documents can get lost.

In addition, the law states that injured people should start court proceedings within three years of the date of an accident or the date they first suspected or were told by a doctor that their symptoms or disease were work related.

The courts have a general discretion to extend the three year time limit, but it is always better to start legal proceedings within the limit.

Who is to blame?

Workers can only claim compensation from their employer if they can show that it was more likely than not that their employer was to blame for the accident and that the accident caused their injuries.

This is called the “balance of probabilities” test.

Workers can prove that their employer was to blame either by showing that they were in breach of a “common law duty” (negligence) or a statutory duty (an actual law).

Workers also have to prove that their injuries or disease were caused or made materially worse by their work. Medical experts provide guidance on these issues.

What do workers have to prove in accident claims?

To get compensation for an accident, workers have to prove that:

- Their employer owed them a “duty of care”.
- They breached the duty of care.
- The breach of that duty resulted in their injury.

The first stage is straightforward as it is well established in law that employers owe their workers a duty to take reasonable care.

The court then asks whether the employer did everything that was reasonable in the circumstances to keep their worker safe. This includes looking at how they dealt with any risks they could reasonably foresee.

This does not mean that employers have to remove every risk. They just have to deal with any risks that are likely to arise and might cause injury which is more than a very minor injury.

What do workers have to prove in disease cases?

These cases can be more difficult to investigate than accident cases. In order to win compensation, workers have to prove:

- That they are suffering from a disease.
- That their employer failed to take adequate steps to prevent or reduce the risk of them suffering from the disease.
- That their disease was caused, or was materially contributed to, by their work.

What compensation is available?

There are different types of compensation for work related injuries and diseases. These include general damages, special damages and damages to compensate if the worker can no longer do their job. This category of damages is generally called 'loss of congenial enjoyment'.

General damages are paid for an injury and reflect the pain and suffering experienced and the fact that the worker may no longer be able, for example, to participate in hobbies or other activities previously enjoyed.

Special damages are paid for financial losses incurred up to the date of a trial and into the future. These can include claims for loss of earnings for the past and future, pension loss claims, the cost of purchasing replacement clothing, shoes or other items, the costs of care and domestic help provided by family or friends, travel costs to hospital, medical expenses (including the cost of private treatment) and the cost of hiring and/or repairing a car.

Courts can reduce the amount of damages if they think the person was partly to blame. The amount awarded can also be reduced if the person has received certain social security benefits which have to be paid back to the Department for Work and Pensions (DWP).

If a worker is injured at work or is suffering from a 'prescribed' work related disease, they may be entitled to Industrial Injuries Disablement Benefit (IIDB). They should contact their local DWP office which will send them the relevant forms to complete. They do not have to prove that their employer was to blame to be entitled to IIDB.

Our full range of booklets include summaries of the law on:

- Accidents at Work
- Age Discrimination
- Disability Discrimination
- Equal Pay
- Equality Act 2010
- Family Friendly Rights
- Pregnancy & Maternity
- Race Discrimination
- Religion or Belief
- Sex Discrimination
- Sexual Orientation Discrimination
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Published March 2012