

# Legislation WATCH

THE No.1 RESOURCE FOR WORKPLACE LAW AND HEALTH AND SAFETY

## Invest in safety this winter

Dealing with the consequences of winter weather presents employers with many concerns over risk. **Are your procedures robust enough?**

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Preparing for ISO 45001



Brexit Update



PPE Standards Warning



**SAFETY  
MADE  
EASY**

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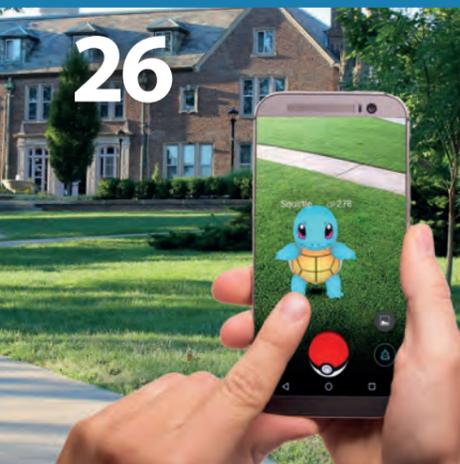


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# Letter FROM THE EDITOR



Dear reader,

Welcome to your new edition of Legislation Watch magazine. Inside you'll find the latest legislation updates, easy-to-read articles and important guidance to help you stay on top of health and safety and workplace law.

From a health and safety perspective, winter brings its own unique set of challenges to the workplace. Wet and frozen floor surfaces put people at risk, so it's not surprising that slips and trips increase greatly throughout the colder months. Thankfully, there are some simple steps you can take to prepare for the dangers of winter; take a look at our article on page 16 and our top tips for de-icing roads and paths on page 19.

Recently, there has been a disturbing trend in the rise of poor quality, falsely certified PPE being manufactured and sold in the UK. The first consideration when selecting PPE should always be the performance of the equipment, not the price. We've put together some useful guidance on page 20 to help you understand what to look for and ensure the products you buy are fit for purpose.

If you haven't already, don't forget to take advantage of our unique 'Ask the Expert' service. Our IOSH accredited experts can answer all your questions on health and safety and workplace law – see page 9 for more information.

I hope you enjoy this edition of Legislation Watch and don't forget you can also access all the information online at [seton.co.uk/legislationwatch](http://seton.co.uk/legislationwatch).

Look out for your next magazine in February!

*Cheryl*

**Cheryl Peacock**  
Editor

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# Legal UPDATE



## Warning on financial implications of sentencing guidelines

The Institute of Occupational Medicine (IOM) has issued a warning on the financial implications of the new sentencing guidelines for health and safety offences, warning that fines that previously would have been set at about £20,000 may now be around the £1 million mark.

The charity, which has its origins in occupational health research, highlighted the important changes to the guidelines which were introduced on 1 February 2016.

At the time of their introduction, one law firm described the new guidelines as “the most significant development in health and safety law for over 40 years, since the Health and Safety at Work Act came into force in 1974” and predicted they will “dramatically increase fines for companies” and “lower the threshold for custody for individuals”.

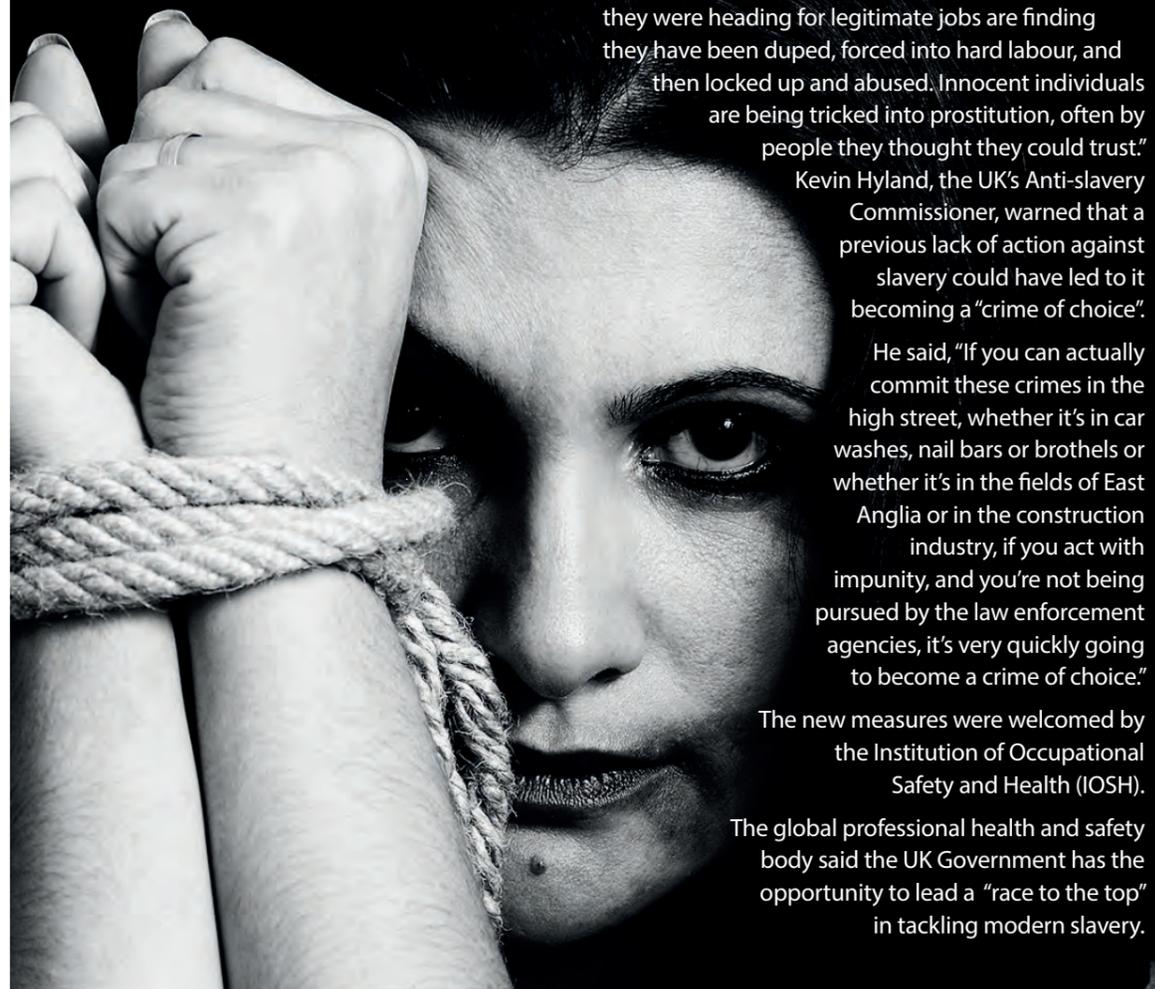
Commenting in July 2016, five months after the introduction of the changes, the IOM said of the new sentencing climate, “The financial penalties are now significantly higher, reinforcing the need for particular stringency in the implementation of health and safety at work. Fines that would have been about £20,000 may now be about £1 million.”

The IOM says one of the factors the courts will take into consideration is the level of the risk of harm, and noted that this can take the fine category down by several hundred thousand pounds (from harm category 1 to harm category 2 or 3).

The Institute also notes that the level of fines will depend on the size (turnover) of the business.

The IOM source said, “This appears to be a new incentive for businesses to ensure that they do not fail in their duties to manage health at work, asbestos, food hygiene and workplace exposures properly.”

## £33 million crackdown on modern day slavery



The Prime Minister Theresa May has pledged £33 million in a crackdown on modern-day slavery, vowing to target slave masters in nail bars, car washes, brothels, construction sites and farms.

Marking the first anniversary of the Modern Slavery Act 2015 — which Mrs May introduced while serving as Home Secretary — she said a new UK cabinet task force would tackle the “sickening and inhuman crimes” of modern-day slavery, and that £33 million from the UK aid budget would go towards funding initiatives overseas.

The Prime Minister said it is estimated that there are between 10,000 and 13,000 victims of modern slavery in the UK alone and over 45 million across the world.

Announcing the measures, Mrs May said, “Vulnerable people who have travelled long distances believing they were heading for legitimate jobs are finding they have been duped, forced into hard labour, and then locked up and abused. Innocent individuals are being tricked into prostitution, often by people they thought they could trust.”

Kevin Hyland, the UK’s Anti-slavery Commissioner, warned that a previous lack of action against slavery could have led to it becoming a “crime of choice”.

He said, “If you can actually commit these crimes in the high street, whether it’s in car washes, nail bars or brothels or whether it’s in the fields of East Anglia or in the construction industry, if you act with impunity, and you’re not being pursued by the law enforcement agencies, it’s very quickly going to become a crime of choice.”

The new measures were welcomed by the Institution of Occupational Safety and Health (IOSH).

The global professional health and safety body said the UK Government has the opportunity to lead a “race to the top” in tackling modern slavery.



## Maximum working temperatures?

MPs have tabled an early day motion (EDM) calling for the introduction of a maximum working temperature, beyond which employers would have a statutory duty to introduce effective control measures.

The EDM noted that at present there is no statutory maximum temperature at which employers need to introduce control measures, such as breaks, access to water or air conditioning.

The Approved Code of Practice (ACOP) to the Workplace (Health, Safety and Welfare) Regulations 1992 suggests the minimum temperature in a workplace should normally be at least 16°C and if the work involves rigorous physical effort, the temperature should be at least 13°C.

The MPs who tabled the EDM have argued that there should be a corresponding upper temperature limit, given that excessive heat in the workplace is responsible for heat stress and thermal discomfort, and can impact seriously on health, wellbeing and productivity.

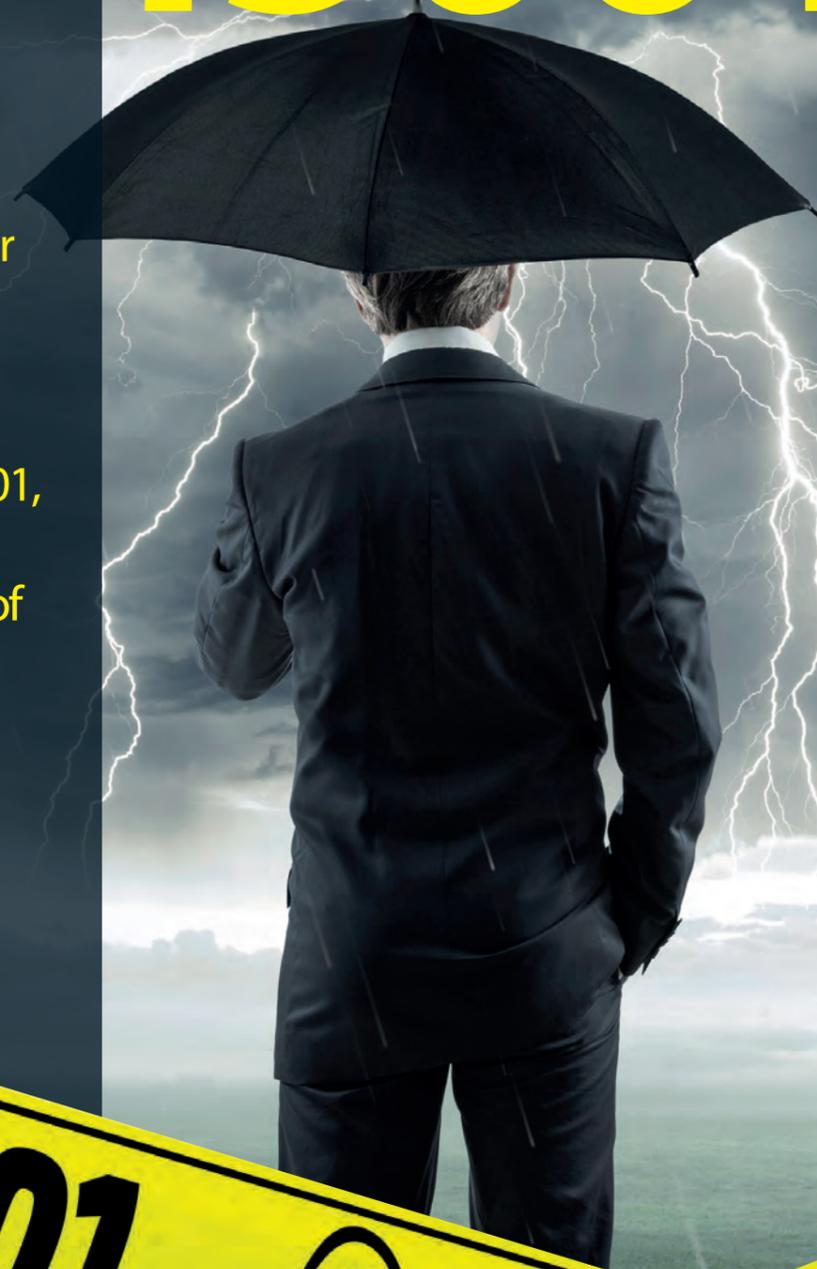
The EDM calls for a maximum working temperature of 30°C or 27°C for those doing strenuous work, beyond which employers would have a statutory duty to introduce effective control measures.

With temperatures reaching over 30°C in certain parts of the UK recently, the TUC urged employers to relax rules to enable staff to work more comfortably.

Commenting on the issue, Frances O’Grady, General Secretary of the TUC, said, “Working in sweltering conditions can be unbearable and dangerous. Employers should relax dress code rules temporarily and ensure staff doing outside work are protected.”

# PREPARING FOR ISO 45001

ISO 45001, the new International Standard for Occupational Health and Safety Management Systems (HSMS) and successor to OHSAS 18001, has seen many delays. Although a final version of the standard is not yet available, it is possible to pre-empt some of the significant changes.



### Why the delay?

The International Organization for Standardization failed to achieve approval of the first Draft International Standard (DIS) amongst ISO members, primarily national standards bodies such as the UK's British Standards Institution (BSI). Although the reasons for the failure have not been circulated, there are reportedly a "variety of reasons" why members voted against the DIS.

It is now likely that a second draft (DIS2) will be delivered for ballot by members in Dec 2016 or Jan 2017 which, if successful, will see the standard available around Dec 2017.

### So what can we expect to see in the final version?

Nobody knows exactly what the finalised standard will look like once it is agreed but the DIS shows us that barring any major changes it will follow ISO's management system standard framework, allowing it to be readily compatible with other existing standards such as ISO 9001 for Quality, ISO 14001 for Environment and ISO 27001 for Information Security.

If we look at the other standards we see that they tend to follow a very similar model broken down into four key phases: Plan, Do, Check, Act, or 'PDCA'. If this sounds familiar, it may be because the Health and Safety Executive (HSE) use it in their own Health and Safety Management System standard, HSG65.

Within the ISO 45001 DIS and other ISO standards, we see the PDCA model

reflected in Planning, Operation, Performance Evaluation and Improvement. We also see some new areas and these are the ones that are likely to puzzle those seeking to move from OHSAS 18001 to ISO 45001.

### Risk-based focus

Aligning itself with modern risk management methodologies, the standard has moved to a more risk-based approach. One significant example of this is the absence of preventive actions, instead the focus being on more detailed corrective action requirements including reacting to incidents or non-conformities in a timely manner, implementing controls and dealing with the consequences. Furthermore it must be determined if similar issues exist or could occur, they should be resolved.

### Your organisation in context

The first main difference is that you have to consider the context of your organisation. This means looking at both external and internal issues that are relevant to how your organisation operates and the strategic direction it is following. In H&S terms this might mean considering how legal, technological, competitive, market, cultural, social and economic issues affect implementation throughout your organisation, in both positive and negative ways.

You will need to understand the needs of your workers. If you have good

communication and consultation on H&S issues between workers and management then you are well on the way to implementation.

In addition to workers, the needs of other interested parties should be considered. These could include:

- Customers or service users
- Suppliers
- Contractors
- Neighbouring businesses or tenants
- Emergency services
- Insurers
- Enforcing bodies such as HSE and Local Authority
- Members of the public.

### Leading from the top

Top management will need to demonstrate leadership and commitment to the H&S management system under the new standard; senior managers must accept accountability for the effectiveness of the system and ensuring that the policy and objectives are compatible with the context and strategy of the organisation.

This all means that it will not simply be enough to appoint an individual or team to 'do Health and Safety' for the organisation.



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While it will still be acceptable to appoint competent persons to assist in implementation, to meet the requirements of the standard top management must play a more active part, driving H&S initiatives through management review, strategy, business objectives, board meetings and other forums.

**Planning to win**

The new standard will require you to address your business risks and opportunities. This does not directly refer to risk assessment, it relates more to determining risks and opportunities to improve and enhance the organisation's HSMS while preventing or reducing undesired effects.

For instance, the British exit from the European Union (BREXIT) may or may not result in significant changes to UK H&S law and our trade agreements with the continent. Organisations should be horizon scanning for any changes relating to this, both good and bad, then react accordingly. The overall drive is to achieve improvement of the system.

H&S objectives need to be measurable and top management will need to ensure that the intended results are achieved. Utilising SMART goals (specific, measurable, achievable, realistic and time-related) will help ensure that your H&S objectives hit the mark.

Changes to your HSMS need to be carried out in a planned manner, taking account of the purpose of the changes and their

consequences, the effects on the integrity of the system, availability of resources and individual responsibilities.

**Organisational knowledge**

Another new requirement will be to determine what 'organisational knowledge' is required for your organisation to operate and achieve conformity with the standard, then make it available as necessary.

Organisational knowledge can include internal sources such as intellectual property, lessons learned from both failures and successes, unshared knowledge held by workers and process, product or service improvements. It can also include external sources such as HSE ACoPs, Guidance, trade industry guidance and knowledge from customers or external providers.

A significant benefit of understanding and maintaining your organisational knowledge will be that you can respond to changes quicker and with more agility, while also giving workers easy access to time-saving knowledge.

**Management review**

In the new standard, the management review will need more top management involvement than it required under OHSAS 18001. It will likely require that the following issues are considered in addition to existing requirements:

- a) Changes in external and internal issues affecting the HSMS
- b) Resources for H&S
- c) Risks and opportunities affecting the HSMS

Again top management will need to be more involved in the process and more aware of the performance of the HSMS throughout the organisation. They will not be expected to know everything in detail but must certainly be seen to be driving the wider, strategic focus of the HSMS.

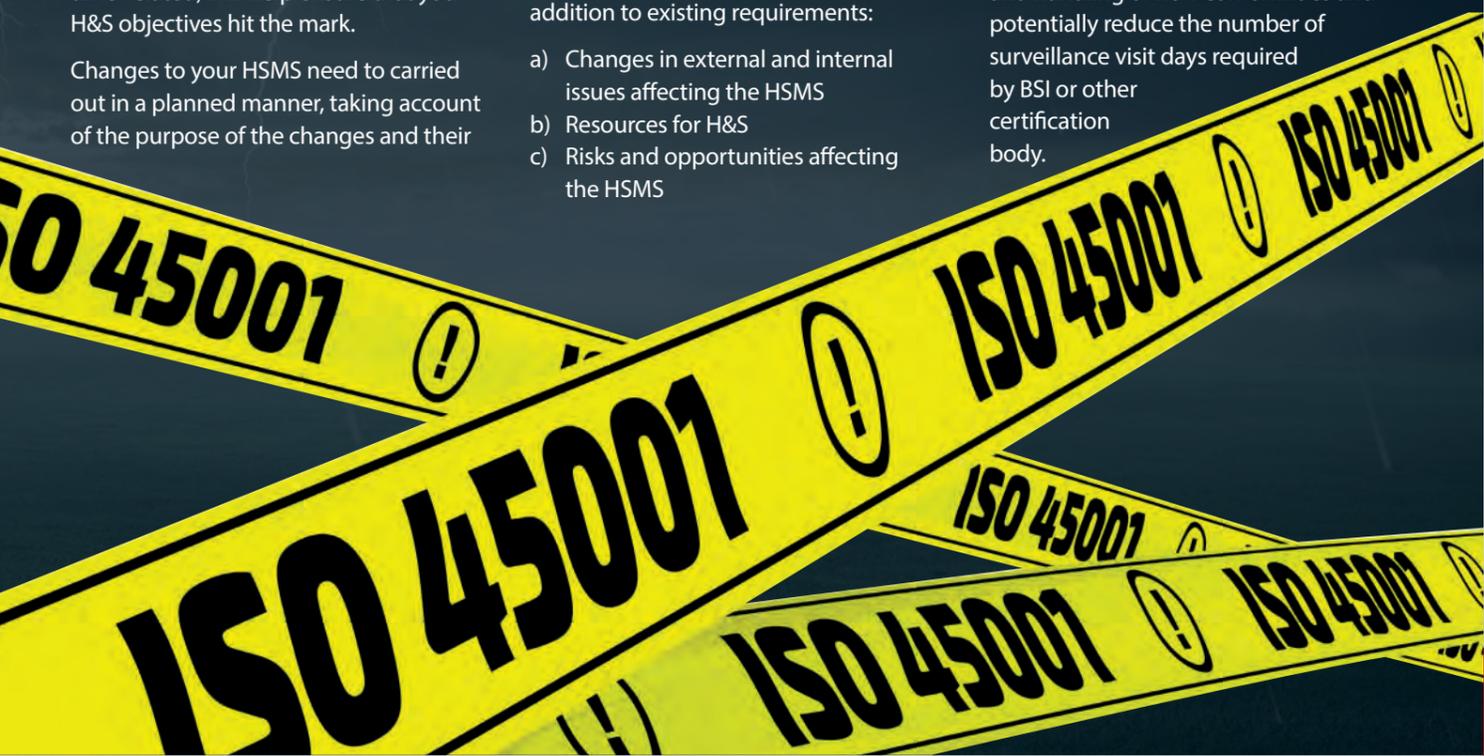
**Significant changes?**

These are just some of the expected changes to come with the publication of ISO 45001 but the overall thrust of the new standard can be broken down into two elements:

- a) adoption of a more risk-based approach within the HSMS and
- b) more active and focused top management involvement in H&S.

The risk-based approach fits more closely with modern H&S techniques and allows organisations to focus in on the significant risks i.e., those that can cause actual harm or loss. It will also allow organisations to devote resources to the significant risks rather than spending a lot of time on minutiae.

The PDCA model framework will help organisations to integrate the standard with both existing and new processes. Compatibility with similar ISOs such as 9001 and 14001 will allow organisations to share key processes such as tracking and handling of non-conformities and potentially reduce the number of surveillance visit days required by BSI or other certification body.



# Ask **the** expert...

**Do you have a question related to Health & Safety or Workplace Law?**

Our experts are IOSH accredited and ready to answer your questions.



**What statutory inspections are required by law for our plant and equipment?**

**One of our workers has had an accident, is it reportable under RIDDOR?**

**What do we need to cover when we deliver H&S training?**

## How to 'Ask the expert'

1. Go to [www.seton.co.uk/legislationwatch](http://www.seton.co.uk/legislationwatch)
2. Click on the red 'Ask the expert' tab at top of page
3. Enter your question on the form
4. We will respond via email within 48 hours!

## RISK ASSESSMENT GUIDE FOR THE

# WAREHOUSE

The Health and Safety Executive's estimates show that in the transport and logistics sector, each year around 3% of workers suffer from an illness they believe to be work-related, with another 3% of workers sustaining a work-related injury.

In terms of ill-health, musculoskeletal problems account for 54% of reported cases, with stress/anxiety/depression accounting for a further 30%. For accidents both slips, trips and falls and lifting and handling count for 28% each, with 11% struck by objects and 10% falling from height.

These statistics show us which areas might be considered significant risks and

should be targeted first when completing risk assessments for a warehouse environment. In addition, because of the serious and sometimes fatal nature of accidents involving delivery vehicles and fork lift trucks, vehicle movement should also be considered a significant risk.

This guide is intended to identify some of the hazards, controls and processes that need to be considered in a risk assessment.

### Manual Handling

Bad backs are the most common form of musculoskeletal disorder in the industry. Because everyone's lifting capabilities are different risk assessments must be carried out on individuals. The assessment should take account of the task, individual's capabilities, the load and the work environment (TILE).

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Key points to examine are:

- Task:
  - o Does it require holding loads away from the trunk, twisting, stooping, reaching upwards, large vertical movements, carrying long distances, strenuous pushing and pulling or repetitive handling?
  - o Is there insufficient time for rest or recovery?
  - o Is a work rate imposed by the process and does it allow for adequate recovery?
- Individual – does the work require unusual capability, present a hazard to those with a health problem or who are pregnant, or require special information and training?
- Loads – are they heavy, bulky/unwieldy, difficult to grip or unstable/unpredictable?
- Work environment – does it have constraints on posture, poorly maintained floors, variations in levels, hot/cold humid conditions, strong air movements or poor lighting?

**Stress**

- Stress can be caused by many factors including:
- Demands - workload and working environment. This is especially relevant for order picking and similar time-bound tasks
  - Control – the level of control the individual has over their work
  - Support – encouragement from management and colleagues
  - Relationships – positive working to avoid conflict and resolve unacceptable behaviour
  - Role – the individual understanding the part they play within the business
  - Change – how it is managed and communicated to workers

A suitable and sufficient stress risk assessment will cover all of these key issues.

**Vehicle Movement**

- Vehicle movement is one of the more hazardous activities carried out in the warehouse environment, especially because vehicle drivers may not be familiar with the site and the rules in place. Here are some of the key controls:
- Roadways are of sufficient width to accommodate the largest vehicle
  - Traffic signing is adequate
  - Parking facilities are adequate
  - Speed limits are in place and obeyed
  - Road surfaces are maintained
  - Drivers of collection/delivery vehicles are

- instructed to report to the office before attempting to manoeuvre vehicles into unloading areas
- Visiting drivers are issued with site rules
- The movement of vehicles with high loads and/or restricted rear vision is supervised
- A speed limit of 5 mph is enforced throughout the site and suitable signs are erected at appropriate positions
- A one-way system has been established with suitable signage displayed
- Adequate lighting is provided to all outside areas
- Road surfaces are maintained in a good condition and repairs are carried out as necessary
- Fixed metal barriers are placed alongside vulnerable areas of the building
- All signs used in connection with traffic comply with the current road traffic legislation. Traffic systems reduce the need for reversing vehicles
- Safe systems of work are employed for reversing vehicles
- The reversing of 'high risk' vehicles i.e., those with high loads and/or restricted rear vision is supervised
- Vehicle and pedestrian routes are segregated with crossing points marked and protected
- Only specified and authorised persons are permitted to work in the yard area
- Employees are instructed to use the single personnel doors provided and not to gain access through roller shutter doors
- Warning signs are displayed advising visitors to report to reception, away from the 'goods-in' area.

**Slips and Trips**

- Slips and trips can be easy to prevent but complacency, poorly maintained premises and inclement weather can lead to accidents. The following should be considered to help reduce slip and trip risks:
- Work at Height Risk Assessments to cover loading/unloading operations
  - Edge protection is provided on docks etc., where appropriate to prevent falls
  - Employees have been trained in safe loading/unloading procedures
  - Suitable access equipment is available for loading/unloading
  - Floors are in a good state of repair
  - Spills are cleaned up quickly – encourage a "see it, sort it" culture
  - Gangways are kept clear
  - Appropriate footwear is worn
  - Ice, snow and excess rainwater are cleared effectively

- Ensure fuel oil tanks are bunded and are not leaking.
- Racking and Falling Objects**
- Racking can be subject to collapse and employees may fall if they climb on it to retrieve items, even briefly. High-level storage increases the risk of falling objects. The following should be checked during your risk assessment:
- The bottom of all uprights are finished with base plates suitably fixed to the floor
  - All packing skins are steel or similar strength material and firmly fixed
  - All components are provided and erected according to the manufacturer's rack configuration diagram
  - All nuts and bolts are tightened and fitted with spring washers
  - The system is regularly inspected for corrosion
  - Back to back systems are joined by fixed links
  - Beam deflection under load does not exceed 1/200 of the span
  - All required notices (e.g. maximum safe load/do not climb on racking) are provided and displayed
  - Records of inspections, faults and remedial action are retained
  - Each component of the racking system is assigned a reference number/letter
  - An inventory of racking components is maintained
  - The system is regularly inspected for damage
  - Employees are encouraged to report damaged racking, whether caused by themselves or by others.

**Work at Height**

- Specific assessments should be carried out for all activities involving work at height. The preference is always to eliminate work at height e.g., by using automated means but when it is not reasonable to eliminate, then collective measures such as suitable platforms should be favoured. The risk assessment should consider the following:
- Limit the use of ladders or stepladders to when it is not reasonably practicable to use safer equipment e.g., when the work is low risk and short duration.
  - Prohibit the use of pallets on fork lift trucks for work at height access.
  - Prohibit employees from climbing on racking unless it is specifically designed for that use.
  - Provide suitable and sufficient training for work at height activities. If access equipment is used then workers should be trained in that specific equipment.

# Training TOOLS

Our Training Tools can be used to guide an informal group discussion that focuses on a particular safety issue. They should take no longer than 10-15 minutes and can be delivered by any responsible person.

Download Your **FREE** Training Slides **NOW!**

## This edition... Warehouse & Storage Safety

In 2009/10 more than 8,500 work related accidents were reported to the HSE and Local Authorities by the storage, warehousing and road haulage industries. Almost 1,600 of these accidents were classified as major injuries such as fractures or amputations.

**There are many hazards in the warehouse environment including:**

- Slips and trips
- Manual handling
- Work at height
- Vehicles in the warehouse
- Moving or falling objects

Our training tool covers each of the areas above to help raise awareness and reduce accidents among employees involved in warehousing and storage.



**Download your FREE Toolbox Talk today!**  
at [www.seton.co.uk/warehouse-training-tool](http://www.seton.co.uk/warehouse-training-tool)

# Brexit

## UPDATE



Now that the dust has settled on the UK's referendum decision to leave the EU, questions are being asked about how Health, Safety and Employment law will change in a post-Brexit landscape. However until the UK triggers Article 50 and formally begins the exit process, employers are left uncertain as to what real effects Brexit will have on their business.

### Employment worries for workers

A recent survey of 1000 working adults by the Chartered Institute of Personnel and Development (CIPD) showed that many workers are taking a downbeat view, with 44% of working adults stating that they felt pessimistic about their post-Brexit future.



In other results from CIPD:

- 20% believed their job to be less secure, with 3% feeling more secure
- 21% felt they needed to up-skill in order to add more value to employers
- 13% said they had experienced, witnessed or heard of incidents of harassment or bullying of a political nature in the workplace
- 7% said they had experienced, witnessed or heard of incidents of a racist nature
- 36% of non-UK employees said they are worried about being able to continue to work in the UK.

Ben Willmott, CIPD's Head of Public Policy, said: "This survey shows that Brexit has proven to be a seismic event in people's working lives and reveals that there is significant level of pessimism in the immediate aftermath of the vote."

He continued: "For most employers it will be important to communicate clearly with employees, stressing that there will be no immediate changes and that the organisation will keep the workforce closely informed about any potential changes as the negotiation over the UK's future relationship with Europe and likely implications become clearer."

"Line managers in particular have a key role in nipping conflict in the bud and making sure that what some may see as 'banter' does not cross the line and become offensive or harassment."

### Brexit brain drain?

The President of the International Institute of Risk and Safety Management (IIRSM), Siobhan Donnelly, has given a warning that the UK risks a 'brain drain', IIRSM having received numerous queries from members who are evaluating their job and career prospects post-Brexit. Where Health and Safety professionals leave to pursue work in the EU or venture further afield this could result in the departure of a lot of high level knowledge from the industry.

She said, "There are people who will be looking to relocate, perhaps to Scotland or Ireland or further afield. We can't afford to lose good people, and it's the people who know they will get jobs who make these decisions first."

Ms Donnelly also stated that employees worry about the perceived lack of job security and economic uncertainty caused

by Brexit needs to be tackled by employers: "Managers and senior leaders are often not in a position to say the business will not be impacted. But I think that where they can reassure and formulate plans that give certainty around jobs, they should communicate that."

Overall the President felt that the UK will remain a world leader in Health and Safety: "Overseas, people look to the UK [for leadership on health and safety]. The 2012 Olympics sent a clear message to the world about our health and safety standards. When I speak to people in Qatar, or Abu Dhabi or Dubai, they all look to the UK."

### Legal autonomy?

Once the UK has left the EU, judges will not have to interpret UK law in accordance with decisions made by the Court of Justice of the European Union (CJEU). This means that we should enjoy more flexibility when it comes to applying the law, although we will remain signatories to the European Convention on Human Rights, which should prevent a rolling back of worker rights. Furthermore the removal of the CJEU as the UK's highest legal authority could see UK courts and enforcing bodies such as the HSE receive a 'boost' of authority.

Depending on any trade agreement reached with the EU, there may be a need to comply with much of EU regulation, similar to the way in which Norway is treated. Of course once the UK is outside of the EU we will have no say in EU directives, although we may still be bound by them due to trade agreements, leading to a scenario where we have responsibility to comply but no say in the law itself.

A historic bone of contention with how the UK applies H&S law is the use of the phrase 'so far as is reasonably practicable' (SFAIRP). Following a 10-year dispute between the UK Government and the EU Commission, in 2007 the European Court of Justice ruled that the UK's use of the phrase in its domestic H&S legislation was acceptable and dismissed the case.

When used in H&S law, SFAIRP allows employers to weigh the quantum of sacrifice (time, effort, resources, cost etc.,) against the risk to employees and others who may be harmed by the organisation's activities when deciding on

which H&S controls to implement. If the sacrifice heavily outweighs the level of risk and benefits from implementing a control then the employer may argue, should the case be brought to court, that they did everything reasonable to protect people short of committing an unreasonable amount of money, resources and time.

This helps to make UK H&S legislation goal-setting rather than prescriptive and gives employers the flexibility to comply in a way that does not necessarily hinder business or result in great expense.

### Big changes ahead for H&S?

Realistically short-term changes to H&S law will focus on making the UK more business-focused and competitive by removing what might be seen as 'regulatory burdens'. Laws that make employers feel disadvantaged compared to other countries or the cost of compliance is believed to be too great may be in the spotlight, including:

- The Working Time Regulations 1998, which are estimated by the Open Europe think tank to cost the economy £4.4bn each year
- Directive 2006/25/EC - artificial optical radiation, the requirements of which the UK has struggled to implement
- The Construction, Design and Management Regulations 2015 which were amended to include temporary structures and private households within the scope of 'construction work' in order to comply with EU Directives
- The requirement for Employers to meet the cost of eye and eyesight tests for Display Screen Equipment work
- The Agency Workers Regulations 2010.

### What should I be doing now?

Until Article 50 is invoked, the pace of change will remain unknown but it will take at least two years to make official the terms of the UK's exit and its relationship (if any) with EU legislation. Businesses employing migrant workers should ensure they have the right to work in the UK and have the required checks and visas in place.

Employers should also make sure their policies and procedures are up-to-date and that documentation such as risk assessments, employment contracts and management systems are robust to current standards in order to future-proof business activities.

# Is your business ready for Winter?

**As winter approaches it is time to revisit the issues which this season may generate for your company and employees and decide if your procedures are robust enough.**

## Temperature

One of the fundamentals during the winter months is protecting your workers from the effects of excessive cold in the premises which form their place of work. Perhaps the most easily controlled environment is an office.

Generally, such workplaces have an effective heating system which will deal with this issue. However, has it been serviced and maintained well enough to make the possibility of breakdown remote? If the system is fuelled by gas it should receive an annual service and inspection by a competent agent; a Gas Safe Registered contractor.

A well designed system should have little problem exceeding the basic requirements relating to temperature in workplaces. The minimum temperatures required under the Workplace (Health, Safety & Welfare) Regulations 1992 are 16°C or, where significant manual work is undertaken, 13°C. However, these should be viewed as extreme minimums rather than "targets". An ideal temperature is very much open to personal interpretation but a comfortable environment is likely to exceed temperatures in the lower 20°C. Sedentary work over a prolonged period at the minimum temperature is likely to generate considerable discomfort and where temperatures are low there will be an increased risk to workers in industrial environments as loss of dexterity and

concentration increase. Where necessary, local heating should be provided to counteract temperature drop.

Some environments cannot be practically heated to a comfortable level. Food freezers are an obvious example. However, other areas may offer a comfortable environment for most of the year but become unpleasant as the end of the year approaches. Large storage areas or production areas with high roofs and poor insulation are not uncommon. Local heating can be beneficial but the tendency of warm air to rise can give problems when attempting to resolve this issue.

In older, less well constructed workplaces the problem may be made considerably worse by draughts arising from poorly fitted windows or doors or other ineffective seals within the structure. Where possible it is possible to rectify this, obvious benefits arise in terms of working conditions and heating costs. However, it is not always possible to make the desirable level of improvement.

If this is the case, other measures should be undertaken. These may include the provision of warmer work-wear for staff in such environments. In cases such as that of stores operatives, they need not be in the main body of the stores all the time. Ensuring they have a well-heated office to operate from can be an effective solution to seasonal low temperatures.

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**Premises and Services**

Other premises considerations include services. Is there a history of water services to buildings freezing up? If so there is the danger of burst pipes and subsequent flooding with possible loss to stock or production. Also, if there is a long term interruption to drinking water and toilet services the premises may become unfit for continued occupancy. Better lagging of pipes or possibly trace heating may be part of a solution.

It should be borne in mind that the Construction (Design & Management) Regulations also carry legal requirements relating to workers both indoors and out of doors on construction sites.

Prevention is always better than cure and can be implemented under controlled conditions. An unexpected failure of part of the structure, particularly roofs in areas prone to winter gales can generate an "emergency" which could be prevented by a little forethought. If there is a history of roof problems a pre-winter examination may allow timely repairs where problems are detected. The alternative involves urgent repairs to preserve the structure of the premises and stock/equipment within it. This may involve putting workers at risk attempting repair work during adverse conditions. Work carried out in obviously dangerous conditions would be deemed a failure to operate a safe system of work.

**Managing Freezing Temperatures, Frost and Snow**

Having considered the premises it is reasonable to extend this process to the surrounding area. Winter will bring unpredictable weather and may result in rain followed by freezing temperatures, frost or snow. This creates hazardous conditions in the areas used by those arriving at work. There is a limit to what may practically be done to safeguard all areas against such hazards but there are obvious priorities. While you may not guarantee all arrivals a snow-free parking

space there will be areas on which all foot traffic will travel from the car park and around the premises. These are areas which should receive priority for gritting. Gritting or similar activities will require planning and should be carried out when frost, ice or snow is predicted and when temperatures are at, or below freezing. The responsible person needs to decide to take measures or discount the need for gritting based on weather information. If possible, contingency measures should be considered to cover unexpected change in conditions. Staff, equipment and materials stock must also be decided. Large bags of de-icing salt are readily available from Seton along with a range of Salt Spreaders that are specifically designed for gritting. Basic equipment such as robust brushes and shovels will also be needed. Finally, specific staff must be designated to perform the work and adequate instruction given to such persons.

Familiarity with the premises should ensure that hazardous areas such as depressions in surfaces where water will accumulate are well known. Such areas should be repaired to prevent the formation of sheets of ice.

**External Lighting**

Another matter to examine is external lighting. As the days shorten staff will eventually be entering and leaving in total darkness unless adequate lighting is provided. This should light walkways and also provide a basic level of lighting in parking area. From a welfare point of view it is worth considering that some members of staff may feel very uneasy leaving a well-lit building and walking through very poorly lit areas, particularly if they have been working later than normal.

**Road Safety**

Another obvious matter of concern in winter arises where travelling is a

substantial part of work activity for sales staff, client facing workers and many others. Certainly, PUWER (Provision and Use of Work Equipment Regulations 1998) does not apply to private cars and guidance states that 'Road Traffic Legislation takes precedence, except where vehicles are used off-road'. But there are other issues to consider including, in the absence of firm legal requirement, a moral obligation not to endanger workers. Also, Corporate Manslaughter legislation may be applied where a fatality arises when work-related driving activities represent a breach of the requirement to operate a safe system of work.

Winter is a time to look again at the hours and geographic locations within which high mileage drivers operate. At a more basic level, inappropriate pressure must not be applied to staff to complete journeys, including commuting to work in the face of dangerous conditions. It will prove impossible to offer comprehensive guidance on varying circumstances but it must be made clear that employees have discretion to decide whether to go ahead with a journey. On the other hand, their decision must be reasonable and may be subject to managerial scrutiny if it seems questionable.

Such staff may be encouraged to carry provisions such as taking a flask of soup and blanket on journeys and ensuring their mobile phone is charged. Sticking to main roads rather than back roads is also sensible, even if the journey will be longer. For company vehicles employers usually offer a breakdown/recovery service and may also wish to consider what further equipment they provide (e.g. a kit with red triangle, torch, high visibility vest, etc).

Dealing with the consequences of winter weather presents employers with many concerns over risk and forethought is the sensible course of action to ensure the safety of your staff.

# De-Icing

## BEST PRACTICE

Health and safety together with best practice is more important than ever during the winter months. Every employer is required to take all reasonably practicable steps to ensure the health, safety and welfare of employees at work. Read our top tips to keep your workplace slip-free this winter.

### TOP TIPS for applying de-icing products

1. Check the weather forecast and apply the product BEFORE snow/ice/frost settles. Ideally early evening on the day before it is forecast.
2. By de-icing in advance, you will use up to 50% less product and it could keep the area clear for up to 72 hours depending on the severity of the weather.
3. Liquid de-icing products will need to be reapplied after heavy rain.
4. Don't allow salt-based products to come into contact with plants, animals or metal structures. Sodium Chloride (Salt) will also etch concrete surfaces.
5. There is a duty of care in relation to fire escapes which are usually metal gantry-type structures where granular products cannot be used, instead use Liquid Ice Melt on these areas.
6. When applying salt-based products, gloves should be worn together with safety boots.
7. If an area is covered in ice, apply the product as close to the 'starting point' as possible to create a safe base to start from.
8. Snow thicker than 40mm should be removed with a snow shovel before applying de-icing product to the remaining layer.
9. For maximum coverage a push along spreader is recommended.
10. Store salt-based material in a weatherproof Grit Bin to keep it dry, otherwise it will become damp and not be suitable for use.

**Popular Solutions from Seton**



**White Salt** is fast-acting and high-purity; it de-ices large areas quickly and leaves virtually no residue making it ideal for access areas, paths and steps. It works down to -12°C and can be used with salt spreaders.

Product Code ICE3



**Rapid Ice Melt** provides 10 times more coverage than salt and is the cleanest way of de-icing your workplace as it leaves no residue. It's 100% non-corrosive so is safe to use around animals and plants.

Product Code MIM6



**Liquid Ice Melt** is environmentally-friendly and can be used on stairwells, gantries and other areas where salt-based de-icers are not suitable. Can be used in conjunction with our Sprayer and Knapsack Sprayer for ease of use.

Product Code MIM9



**Salt Spreaders** are a necessity for any medium to large site and provide the easiest way to de-ice whilst ensuring even coverage. We have a range of spreaders ranging from a general 18kg Spreader through to a 36kg Professional Spreader to suit every application.

Product Code WSS2



**Salt/Grit Bins** ensure your de-icing product remains clean, dry and contained. If not stored in a weatherproof container, the salt becomes harder to apply as it becomes damp. You can store your shovels in there too so they are always to hand when required.

Product Code GRIT2 YEL



# PPE

## Standards Warning

**A variety of sources including the Health and Safety Executive (HSE) and the British Safety Industry Federation (BSIF) have reported numerous times that the UK is awash with poor quality, unsafe personal protective equipment (PPE). But how serious is the problem and how can employers be sure that the products they are purchasing are fit for purpose?**

### What should we look out for?

CE marking and compliance with relevant British and International standards are a good place to start, although CE marking alone must not be considered enough as it does not relate to a relevant design

standard. Employers should seek out PPE from reputable suppliers such as Seton who have in-depth knowledge of their products. They should also state that the product is CE marked and quote the relevant standard in their catalogues,

websites, on packaging and on the item itself.

Most types of PPE are available in various grades, depending upon their level of performance. Employers are not obliged to

buy the highest grade if risk assessment shows that a lower grade has all the characteristics required to provide effective protection to employees. Nevertheless, the first consideration in selecting PPE should always be Health and Safety performance, not price.

Much of the defective PPE identified in the UK has been hard hats and high-visibility clothing so employers looking to source these items should look for compliance with BS EN 397:2012+A1:2012 and BS EN ISO 20471:2013 standards respectively.

In 2015 Poundworld was fined £63,000 for selling “non-compliant non-performing” high-visibility vests that were misleadingly described. The court heard that a Trading Standards officer had purchased a vest that was tested for visibility in low-light conditions, the results of which were stated to be “amongst the worst results ever recorded” by the testing company. Initially blaming a ‘bad batch’, Poundworld eventually initiated a national recall of the product.

BSIF have also flagged up that compression tests on safety footwear showed that thermoplastic caps appear to be regularly substituted for non-metallic glass fibre. They stated, “Safety footwear is commonly a bought-in product, with a long supply chain and often the importer is unaware that the footwear being sourced now has a toe cap component which will not provide the user with the protection level that they expect ... The current evidence from safety footwear toe cap failures reinforces our view that positive action is required now.”

They had also seen failings of leather gloves due to the presence of banned substances in the fabric of the gloves such as Chromium VI and Azo dye, which could harm the user.

### Updated BSIF scheme

Speaking about the prevalence of poor quality PPE, a source at BSIF has stated, “Never before has there been more widespread evidence of product failing to meet claimed performance standards ... The users of safety equipment and PPE deserve to get the standard of product they expect, supplied through a capable network. Many products that have been found not to perform are placed on the

market at the end of a long import supply chain that is clearly difficult to manage.”

BSIF recently re-launched its Registered Safety Supplier Scheme (RSSS) in response to what it sees as this widespread failure of PPE products to comply with basic safety standards. The relaunch saw a strengthening in the terms of membership for PPE manufacturers and suppliers supplying to the UK.

Any company registered on the scheme and displaying the logo must sign a declaration that the PPE they supply complies with relevant standards, legislation and is CE marked. The suppliers are independently audited to ensure they meet these compliance standards.

The RSSS scheme is another way that employers can be confident that the product they are buying is fit for purpose.

### New EU PPE Regulation

In April 2016 the new European Personal Protective Equipment Regulation 2016/425 came into force with full implementation in April 2018. The new Regulation extends the scope of the European PPE Directive (89/686/EC), with the addition of PPE for protection against moisture, water and heat (e.g. dish-washing and oven gloves) when used for private instead of commercial purposes, which were covered by the original Directive.

The arrival of the Regulations has been seen by suppliers and H&S industry bodies to be a step forward in countering the growing problem of counterfeit and inferior quality PPE in the UK.

While the BREXIT vote has raised some questions about the future of EU-based law in the UK, we are likely to see most, if not all, EU legislation retained in one form or another. The same will be true of the Personal Protective Equipment Regulation.

BSIF has stated that it will be seeking early guidance on key issues from the UK Trade & Investment (UKTI) department and the Department for Business, Innovation & Skills (BIS). It believes that the PPE market will continue to recognise the Regulation post-BREXIT.

BSIF also intended to work “diligently” with lawmakers to be “on the inside of any discussions”.

### Employer Duties

Employers must ensure that PPE is readily available for use as and when it is required and in general, each item should be personally issued to the employee.

Employers have a duty, not only to provide information and instruction, but also to train their employees in the use of PPE as well as the reasons why it is necessary, the results of not wearing it and any cleaning or maintenance procedures required.

The employer is not allowed to make any charge or levy in respect of any PPE provided if there is a specific requirement to provide it. This includes any PPE which is provided as a result of an assessment of risk rather than just for the company’s image or the comfort or convenience of the employees.

As the employer has to provide PPE which is suitable and takes into account the requirements not only of the task but also the individual, there is a need to consult with the persons who have to wear the PPE.

If more than one item of PPE is worn simultaneously, then such equipment must be compatible, e.g. many types of ear muffs prevent a safety helmet being worn properly but combined helmets and ear muffs are available.

It is the employer’s responsibility to ensure that the PPE is worn when required as well as ensuring that the PPE is maintained in an efficient working order, in good repair and is kept clean.

The PPE should be replaced, as and when necessary. Adequate facilities should be provided by the employer to clean, maintain and store the PPE. This may include lockers and drying facilities.

### Conclusion

Although PPE should always be considered the ‘last resort’ in the hierarchy of H&S controls, many employers rely on it to keep their employees safe. As such it is vitally important to ensure that the PPE provided is good quality and will serve its purpose – failure to do so might see the business in trouble with the authorities or subject to civil claims. Always source PPE from reputable suppliers such as Seton.

# WHAT'S IN YOUR First Aid Room?



There are around **640,000** self-reported workplace injuries each year in the UK. (Rospa)

At Seton, we're continuously developing products to help you manage first aid effectively. We have the right solution, no matter what environment you work in.

## Legislation – Health and Safety (First-Aid) Regulations 1981

Employers should provide a suitable first aid room or rooms where the assessment of first aid needs identifies this as necessary. The first aid room(s) should contain essential first aid facilities and equipment, be easily accessible to stretchers and be clearly signposted and identified. If possible, the room(s) should be reserved exclusively for giving first aid.

### First aid rooms should:

- Be large enough to hold an examination/medical couch, with enough space at each side for people to work, a chair and any necessary additional equipment
- Have washable surfaces and adequate heating, ventilation and lighting
- Be kept clean, tidy, accessible and available for use at all times when employees are at work
- Be positioned as near as possible to a point of access for transport to hospital
- Display a notice on the door advising of the names, locations and, if appropriate, telephone extensions of first-aiders and how to contact them.



A typical example of the equipment and facilities a first aid room may contain:

- A sink with hot and cold running water
- Drinking water with disposable cups
- Soap and paper towels
- A store for first aid materials
- Foot-operated refuse containers lined with disposable clinical waste bags
- An examination/medical couch with waterproof protection and clean pillows and blankets
- A chair
- A telephone or other communication equipment
- An accident record book

**NEW!**

We've revamped our First Aid range take a look at over **250 NEW** and improved products  
[seton.co.uk/first-aid-new](http://seton.co.uk/first-aid-new)



# Q&As



## Safe Footpaths in Winter

**Q.** I am concerned that our footpaths and traffic routes will become dangerous through ice or snowfall during the winter. What should we do to prevent incidents?

**A.** Under the Workplace (Health, Safety and Welfare) Regulations 1992 duty holders must ensure that adequate arrangements are in place to minimise the risks from snow and ice on pedestrian/vehicle traffic routes.

An assessment of the site can be undertaken to determine what routes will take priority. The priority will be clearing ice/snow and applying salt/grit to the main access routes to the establishment. The person responsible will need to determine other priority areas such as escape routes, on-site roads and parking areas. The use of routes and their characteristics e.g. any slopes or bends will also need to be considered.

Thought should be given as to when to clear routes. An early warning of snow or icy conditions may allow priority areas to be gritted in advance, e.g. during the previous evening or afternoon.

Winter conditions may result in more water being trodden into buildings. It's important to ensure that floors are cleaned and dried or mats put down at the main entrances to help control the risk of slipping.

For extended poor weather conditions, access routes need to be inspected regularly following gritting to monitor its effectiveness, ideally at the start of the day, before lunch and before the end of the working day. Any additional gritting that is required should be done before people leave the building to minimise the risk of incidents.

## The Use of Protective Gloves

**Q.** A number of employees have to wear protective gloves when handling chemicals. We have provided the gloves but a safety representative has insisted that we should be training employees in the use of them. Is that really necessary?

**A.** As the gloves are provided for protection against chemicals, the requirements of the Control of Substances Hazardous to Health 2002 will be applicable rather than the Personal Protective Equipment at Work Regulations 1992.

Regulation 7 requires the employer to provide appropriate protective measures including "the provision of suitable personal protective equipment" such as gloves.

Gloves, as with other forms of personal protective equipment, are the last line of defence against exposure to hazards and as such it is important that all employees are fully conversant with their use as a

control measure and are motivated to use them in an appropriate manner.

Employees, supervisors, managers and those involved in glove maintenance will all need training in the effective use of protective gloves.

Training should include:

- Details of the risks of exposure
- The type of gloves to be worn for specific tasks and when they are to be worn
- The correct methods for removing and refitting gloves without contaminating the skin
- The limitations of gloves as a control measure
- How long they can be worn before liquid contamination is liable to permeate them
- The procedures for maintaining gloves
- Disposal procedures
- Procedures to be followed if any exposure does occur.

Refresher training will be particularly important for people who do not have to wear protective gloves very often.



# Q&As



## Fragile Surfaces When Working at Height

**Q.** I understand that under the Work at Height Regulations 2005 there are specific requirements in relation to fragile surfaces. How can we determine whether or not a roof is fragile?

**A.** The Work at Height Regulations 2005 define a fragile surface as "a surface, which would be liable to fail if any reasonably foreseeable loading were to be applied to it".

A person walking (with or without tools and/or materials) is a reasonable/foreseeable loading. Under the regulations, employers must ensure that no one working under their control goes onto or near a fragile surface unless that is the only reasonably practicable way for the worker to carry out the work safely — having regard to the demands of the task, equipment, or working environment.

A roof should always be treated as fragile until a competent person has agreed otherwise.

Typical fragile materials include asbestos cement sheets, old roof lights, non-reinforced fibre cement sheets, corroded metal sheets, glass (including wired glass), slates and tiles.

# News ROUND UP

# November 2016



**“Cake culture” putting office workers’ health at risk**  
Health experts have warned that a workplace “cake culture” is fuelling the current obesity epidemic and contributing to poor dental health, putting office workers’ wellbeing at risk.



**Young workers 40% more vulnerable to injuries**  
The European Agency for Safety and Health at Work (EU-OSHA) has highlighted figures which illustrate the vulnerability of young workers, pointing out that under-25s have a 40% higher rate of injuries than older workers.



**Guilty plea for Star Wars producers**  
A London-based film company has pleaded guilty to failing to protect actors and workers following an incident in which Harrison Ford was seriously injured during the filming of Star Wars: The Force Awakens.

**Pokemon Go — another occupational road risk?**

Most managers are aware of the dangers of their at-work drivers using mobiles to make business or personal calls while at the wheel but now experts are warning motorists “not to go searching for Pikachu on the M25”.



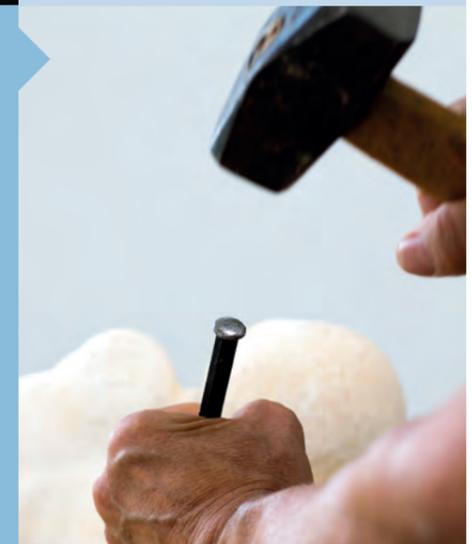
**Brexit brain drain for health and safety sector?**

The President of the International Institute of Risk and Safety Management (IIRSM) has commented on the landscape following Britain’s historic referendum vote to leave the EU, warning of a possible brain drain should health and safety practitioners decide to pursue opportunities in the EU or elsewhere.



**Michelangelo’s work-related injuries**

Doctors have concluded that prolonged hammering and chiselling accelerated degenerative arthritis in the hands of the great artist and sculptor Michelangelo Buonarroti, but the intense work probably helped him keep the use of his hands right up until he died.



**Plan for access to defibrillators across London**

Three Greenwich fire stations are the first in London to get defibrillators on the outside of their buildings as part of a campaign by London Ambulance Service to get 1000 extra defibrillators in retail and commercial premises and other public places across the capital.



**Good news for sedentary jobs**

A major new piece of research has been published in The Lancet, concluding that one hour of physical activity a day, such as brisk walking or cycling for pleasure, may offset the health risk of eight hours spent sitting at work.



**Link between obesity and night work “proven”**

A new study has confirmed health risks associated with night work, with risks of obesity and sleep disorders said to be “proven”.



**Calls for corporate transparency after Sports Direct inquiry**

The Institution of Occupational Safety and Health (IOSH) has called for improved corporate transparency following the publication of a damning report into working practices at high street retailer Sports Direct.



## Knowledge Centre: Help & Advice

Vital information on health and safety legislation, detailed product guides and the latest hot topics and industry news.



### **Legislation**WATCH

**Helping you comply with legislation**

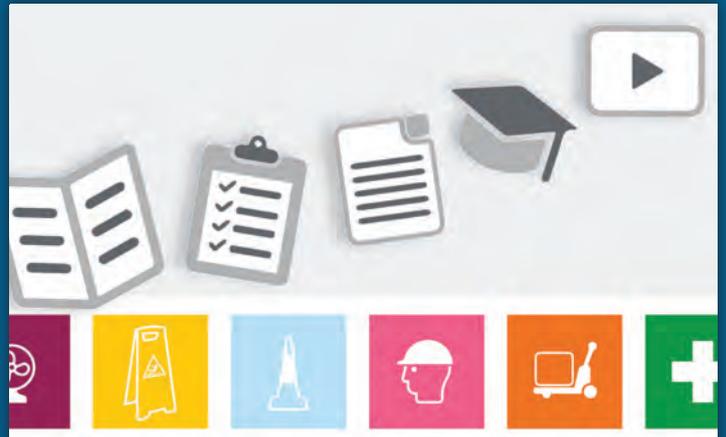
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