


Summary of the
law on

ACCIDENTS AT WORK



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

This booklet explains the basic rights to which workers are entitled to 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, such as the Manual Handling Regulations 1992 (as amended), Workplace Regulations 1992, and Work Equipment 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 are in force which govern health and safety where a worker comes into contact with dangerous chemicals and other harmful substances at work (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 the worker can show that their employer had broken one 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. In most accident cases, 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 to put in a claim as soon as possible. If a worker delays, there may be a problem gathering evidence. Witnesses may have problems recollecting precisely what happened and documents can become 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 was 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 three year 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 their employer was 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 was 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 “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 by, or 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 you if you can no longer carry out a job that you previously enjoyed. 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 reimbursed to The Department of Work and Pensions (DWP).

If you have been injured at work or are suffering from a 'prescribed' work related disease, you may be entitled to Industrial Injuries Disablement Benefit (IIDB). You should contact your local DWP office who will send you the relevant forms to complete. You do not have to prove that your employer was to blame to be entitled to (IIDB).



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