

Licensing Act 2003 Guidance: Health & Safety matters important to licensees

There is a general requirement for employers to provide a safe place and system of work for all employees and anyone affected by work activities, e.g. the public or contractors.

In particular, you will need to carry out a risk assessment of potential hazards to identify the actual risk to health and safety involved, keep your employees informed of such risks, consult your employees and have regard to the many regulations in force.

Owner, tenants and managers can all be prosecuted for breaches of health and safety legislation so it is important that you check that you comply. It is not enough to claim that you weren't aware of the law – ignorance is no defence. You should also review health and safety matters regularly.

There is a potential defence of having taken all reasonable steps to prevent the offence occurring in the first place. It is important that you seek legal advice at the earliest opportunity – it can be too late if you wait until you receive the summons. The cost of getting this wrong can be substantial. The maximum fine for each Health & Safety offence is £20,000 in the Magistrates' Court and is coupled with the risk of a prison term. The fine is unlimited in the Crown Court.

Many licensed premises provide food as their main trade or as an extra service to their patrons. In any case, for the purposes of law covering health and hygiene drink, whether containing alcohol or not, counts no differently from food.

Safety in licensed premises and food hygiene are very important matters for licensees. Licensees and their staff must be fully aware of these requirements and should liaise over safety with the environmental health department and fire authority concerning their premises.

General Health & Safety at Work

Employers' Responsibilities

Employers are legally responsible to ensure the health, safety and welfare of employees in the workplace. This responsibility is governed by the Health and Safety Act 1974. Failure to comply with the legislation can result in criminal prosecutions or an employee suing for personal injury.

Employers also have an implied duty to take reasonable steps to ensure employees'

health, safety and welfare are not put at risk. Ultimately, an employer can be held liable for a failure to rectify a potential hazard. Basic responsibilities include:

1. Assess risk to health and safety
2. Introduce satisfactory measures to eliminate risks
3. If there are five or more employees, record any findings of hazards and draw up a health and safety policy
4. Report any serious accidents that occur
5. Maintaining a safe working environment
6. Ensuring that employees' health is not at risk whilst at the workplace
7. Providing information to employees about working safely
8. Ensuring that equipment is maintained and used in a safe manner
9. Implementing emergency procedures and first aid

Employees' Responsibilities

An employee's duties include taking adequate care for their own health and safety and that of colleagues. Employees' duties include co-operating with the employer to ensure that regulations are met. Employees must not interfere with anything provided for health and safety matters and must use equipment in the correct manner.

Risk Assessment

If you employ five or more people you are legally required to have a written statement of your health and safety policy, due to the Management of Health and Safety at Work Regulations 1992. A careful examination is vital to ensure that adequate precautions are taken to eliminate any potential risks. It is important to follow the points below:

1. Both employers and staff are advised to regularly assess the workplace looking for anything that could cause harm. It is important to consider employees who may be more vulnerable, such as young workers and pregnant women
2. If hazards are detected, identify appropriate solutions to rectify problems. As many precautions as necessary should be implemented
3. If you employ five or more members of staff, any changes need to be recorded and all members of staff must be notified
4. Continual assessments will need to be conducted to ensure that there is no further risk

Safety in the Licensed Trade

There are many potential hazards within the licensed trade. Always comply with the following:

1. Barrel deliveries should be guarded and under control. Crates should be moved carefully into and out of the cellar and should be checked immediately for broken glass
2. Internal and external hatches leading to cellars must be guarded to protect staff and

customers. The licensee is responsible for everyone's safety

3. Store crates neatly in areas that pose little risk
4. Look before grasping broken bottles from a crate
5. Throw away all cracked glasses
6. Ensure that floors are kept dry, but when wet display a sign to warn about slipping

Food

Food health and safety is governed by the Food Safety Act 1990. The owner of a food business can use a safety system to ensure that foods are safe to consume. Under the Food Safety (General Food Hygiene) Regulations 1995, employers are required to identify potential food hazards, eliminate problems and maintain adequate safety measures. Each member of staff should contribute to the system. The points below are suggestions of what should be included in a safety system:

1. Identify all operations conducted in relation to food e.g. storage
2. Identify any potential hazards for each operation e.g. bacteria
3. Implement preventative measures e.g. thorough cleaning of all surfaces
4. Regularly assess the controls and constantly aim to improve safety measures

Below is a list of potential hazards to be aware of:

1. Contamination from dirt, bacteria or contact with raw food. Temperatures are very important in limiting the growth of bacteria
2. Contamination by staff, customers, equipment or work surfaces

Important: legal action can be taken if premises are not kept clean!

Training each member of staff is vital to avoid mistakes. Each individual should have at least a basic knowledge of general health and safety and food hygiene measures when in contact with food.

Staff who are feeling unwell must report to the manager and unwell staff must be sent home to avoid contaminating food.

First Aid in the Workplace

Employers are required, under the Health and Safety (First Aid) Regulations 1981, to provide adequate first aid facilities to their employees.

You must provide a first aid box or storage area that is clearly marked. There are no specific items that need to be included in this, however, below is a list of items that you are advised to include:

1. General guidance on first aid

2. Wrapped sterile adhesive dressings of assorted sizes
3. Sterile eye pads
4. Safety pins
5. Disposable gloves

Important: You should not keep medicines/tablets in the first aid box.

Reporting Accidents

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulation requires certain accidents to be reported. Accidents should be recorded in an accident book. (This is not required under Health and Safety legislation; it is a requirement of Social Security legislation). Records must be kept at the premises for at least three years. Examples of accidents that must be recorded/reported to the Health and Safety Department at your local Council include:

1. Death, amputation, broken limbs and dislocations
2. Back and limb injuries from contact with equipment
3. Lung diseases, skin diseases and infections resulting from exposures at work
4. Dangerous occurrences or lucky escapes
5. An injury which results in an employee being absent for three or more days

Electrical Safety

Regulation 4(2) of the Electricity at Work Regulations 1989 states that all systems should be maintained to prevent danger. Checks should be made every five years at least. Registered electricians (registered with the National Inspection Council or Electrical Contractors Association) should carry out all relevant tests.

Fire Safety

All employers are required to comply with the Fire Precautions Act 1971 and/or the Fire Precautions (Workplace) Regulation 1997. All premises should be checked by the fire authority to ensure that the premises comply with all legal requirements. For businesses that employ ten or more members of staff a Fire Certificate may need to be issued by the Fire Service. Breach of such a certificate could result in the employer or a responsible manager being prosecuted.

Employers' duties include assessing the premises for any potential fire hazards and eliminating any risk. The following should be considered.

1. Staff should be trained to ensure that every employee knows what to do in the event of a fire, how to raise the alarm, where the escape routes are and where to assemble away from the premises
2. Adequate fire detection equipment and warning systems should be installed. These

should be checked regularly

3. Suitable escape routes should be determined and cleared to ensure that the premises are evacuated safely in case of fire. All doors that people would pass through to escape should be easily opened.

If there are five or more employees, the employer must keep a record of any risk assessments carried out. Your written risk assessment will be the focus of inspections made by the Fire Service. This will be used to assess compliance with the Fire Precautions (Workplace) Regulations.

The advice in this document should not be regarded as a definitive statement of the law – you are advised to seek your own legal advice. You can contact the Licensing Section by email at licensing@haringey.gov.uk .