

PERSONAL PROTECTIVE EQUIPMENT

Background

The Safety, Health and Welfare at Work Act 2005 applies to employers, employees in all employments and to the self employed. The Act contains provisions for improving the safety, health and welfare of all workers. Section 8 sets out the General Duties of the employer under the Act which includes a duty of care to the employee. One of these duties provides for the provision and maintenance of suitable Personal Protective Equipment (PPE) where risks cannot be eliminated or where such equipment is prescribed.

In addition Section 13 of the Act places responsibilities on employees one of which is to correctly use PPE provided for use at work for his/her protection taking account of the training and instructions given by the employer. Section 14 prohibits any person from intentionally or recklessly interfering with, misusing or damaging anything provided under health and safety legislation, or provided to protect the safety, health and welfare of persons at work which includes the misuse of PPE.

On a regular basis the Union receives queries about the provision and use of PPE at work and set out below is the answer to some common questions received. This is not intended to be a legal interpretation of the legislation.

Safety, Health and Welfare at Work (General Application) Regulations 2007

The Safety, Health and Welfare at Work (General Application) Regulations compliment the Safety Health and Welfare at Work Act 2005 by including all of the specific safety and health laws in one text. The text is user friendly and is designed to assist anyone making reference to safety and health regulations.

Part 2 of the regulations refers to the Workplace and the use of Work Equipment and Chapter 3 refers to Personal Protective Equipment.

Chapter 3 of Part 2 – Personal Protective Equipment (PPE)

PPE should only be used as a last resort. The safety and health of employees should be safeguarded by measures to eliminate workplace risks at source, through technical or organisational means or by providing protection on a collective basis.

A risk means the likelihood, great or small, that someone will be harmed by a hazard together with the severity of the harm suffered. It also depends on the number of people who might be exposed to the hazard. Collective protective measures covering a number of employees have priority over individual protective measures. If these are not sufficient then PPE must be used to protect against the hazards that are unavoidable.

There are strong arguments for attempting to control hazards on a general or collective basis before resorting to PPE:

- It only protects the wearer

- The use of PPE will restrict the wearer to some degree, e.g. movement and may be uncomfortable to wear
- The psychological effect of PPE may be such that the individual wearing it feels more protected than he or she actually is
- Theoretical levels of protection are seldom reached in practice and actual levels of protection are difficult to assess

Provision of Personal Protective Equipment

Under Regulation 62 when risks cannot be adequately controlled by other means, there is an obligation on the employer to supply PPE. In circumstances where the risks are sufficiently low and can be considered to be adequately controlled, the provision of PPE is not necessary. An example of this would be office workers who would rarely have to handle heavy objects manually and so would not be issued with safety footwear.

In addition, when selecting PPE employers must comply with relevant European Community Directives regarding design and manufacture of PPE with respect to safety and health.

Assessment of Personal Protective Equipment

Regulation 63 requires the employer to make an assessment of the hazards in the workplace to identify the correct type of PPE to be provided so that it is appropriate to the risk. Care must be exercised in selecting PPE as certain types of PPE give reasonably high levels of protection while others that may appear almost the same, give relatively low levels of protection. The level of risk must be assessed, so that the performance required of the PPE can be determined.

When assessing whether PPE is suitable, the following should be considered:

- Is it appropriate for the risks involved and the conditions at the place where exposure to the risk may occur?
- Does it prevent or adequately control the risks involved without increasing the overall level of risk?
- Can it be adjusted to fit the wearer correctly?
- Have any relevant medical conditions of the wearer of the PPE that the employer is aware of been taken into account?
- What are the needs of the job and the demands it places on the wearer? For example, the length of time the PPE needs to be worn, the physical effort required to do the job and the requirements for visibility and communication.
- Does the PPE cause discomfort? PPE that is uncomfortable is less likely to be used appropriately.
- If more than one item of PPE is being worn, are they compatible?

The PPE selected should be capable of achieving the level of protection required. Selection must also take account of the proper wearing and fitting of the equipment. The employee using the PPE must be consulted and involved in the selection of the equipment.

The assessment of the PPE selected must be periodically reviewed, particularly if there is reason to suspect that any element of the assessment is no longer valid or there has been a significant change in the matters to which it relates. Replacement PPE must be provided where the assessment reveals this to be necessary.

Conditions of Use and Compatibility

Regulation 64 provides that where PPE must be used, the employer is obliged to examine the seriousness and frequency of the risks present in the workplace and to reduce, as far as possible, the times necessary for the employee to wear PPE without risk to his or her safety and health.

When selecting PPE there are certain ergonomic, physical and health factors which need to be taken into account. These factors also reinforce the fundamental principle that PPE must only be used as a last resort.

1. **Movement:** Some forms of PPE may be heavy and cumbersome thereby restricting mobility and frequent short rest periods may be necessary.
2. **Visibility:** Many types of safety goggles may restrict the area of view and cause tunnel vision. Misting of lenses also arise particularly where the operation involves hard physical work. Ventilated goggles may reduce this problem.
3. **Breathing:** Breathing ability may be restricted when using PPE, especially if particulate filters are being used. Breathing difficulties may arise as filters become clogged. Frequent change of filters may be necessary.
4. **Irritation:** Employees with sensitive skin may suffer from irritation when wearing PPE.
5. **Health:** Employees with chronically discharging ears (from chronic infection of the middle ear) or with “itchy ears” (otitis externa), may have great difficulty inserting ear plugs and ear muffs may be more suitable.

Special care should be taken where persons suffering from certain medical conditions, e.g. certain types of respiratory protective equipment may not be suitable for employees with asthma, bronchitis or heart disease. Where situations such as these occur, the employer should seek medical advice as to whether the employee can tolerate the use of PPE.

In sourcing PPE, the employer must, therefore, select appropriate PPE which is user-friendly and which fits the individual employee correctly, if necessary after adjustment.

Personal Use

Regulation 65 requires that PPE should normally be provided for personal use only. On occasions it may be necessary, particularly for more complex and expensive PPE such as respirators or diving equipment, to be used by more than one person. In those circumstances arrangements should be made by the employer to have the PPE cleaned and disinfected before use by another individual.

Cost of PPE

Under section 8(5) of the 2005 Act, no charge may be made to a worker for the provision of PPE, which is used at work. Section 8(5) states:

“Every employer shall ensure that any measures taken by him or her relating to safety, health and welfare at work do not involve financial cost to his or her employees”

An employer may not ask for money to be paid to them by an employee for the provision of PPE whether returnable (e.g. a deposit) or otherwise.

Maintenance and Replacement

Regulation 66 provides that an employer shall ensure that any PPE provided by the employer is maintained at all times in good working order and in a satisfactory hygienic condition by means of any necessary storage, maintenance, repair or replacement.

PPE maintenance programmes will vary with the type of equipment and its use. Respiratory protective equipment (RPE) requires a very high degree of regular examination and necessary maintenance, whereas protective shoes or gloves may require inspection only. The level of inspection and maintenance will normally be indicated by the manufacturer's instructions. The frequency of use must also be taken into account in the maintenance programme.

Information, Training and Instruction

As part of the Safety, Health and Welfare at Work Act the employer has a duty to inform, instruct and train employees regarding the risks to safety, health and welfare at the place of work and the protective and preventive measures to be taken under the relevant statutory provisions.

Regulation 67 requires that where PPE is provided employees must be informed of the risks against which they are being protected by the PPE. Employees must also be provided with suitable information, instruction and training (including training in the use, care or maintenance of PPE) to enable them to make proper and effective use of any PPE provided for their protection. PPE users must be trained as regards wearing, proper use and any limitations of PPE.

Managers and supervisors should also be aware of the reasons for providing PPE, its proper use and, in particular, the level of protection afforded. The level of training provided will vary with the level of risk involved and the complexity and performance of the equipment.

Where theoretical training is necessary it should include:

- (i) knowledge and understanding of types of risks present in the workplace and why it is necessary to use PPE;

- (ii) knowledge and understanding of the characteristics of the PPE which could limit the performance and the protection given to the individual by the PPE;
- (iii) knowledge and understanding of other factors which may affect the protection afforded by the PPE such as personal factors, working conditions, improper fitting, defects, damage and wear;
- (iv) knowledge and understanding of factors which may affect the storage of PPE such as sunlight, humidity and temperature etc.

Practical training should include:

- (i) practice and familiarity in putting on, wearing and removing PPE;
- (ii) inspection and, where necessary, testing of PPE before and after use;
- (iii) any maintenance of PPE which may be carried out by the user.

Must employees wear PPE

There is a duty on employees, having regard to their training and instructions, to make correct use of PPE. Employees should:

- Use PPE properly whenever it is required to be used.
- Report any defects in or damage to the PPE immediately.
- Participate in any training or instruction provided on PPE.
- Inform their employer of any medical conditions they have that might be affected by the use of the PPE provided to them.

Under the Safety, Health and Welfare at Work Act 2005, there is a duty on employees to wear PPE provided. Where this is not being adhered to, employers can ask the employee why the PPE is not being worn in case there is a genuine difficulty being encountered by the wearer. If employees persist in not wearing PPE then they can be the subject of disciplinary action.