

Occupational safety and health

Safety and health in the workplace
Health and safety at work act



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Forward

Occupational safety and health legislation forms part of labour law, which – unlike employment contract law – contains so-called public-law rules.

There are also directives on this issue at EU level which have to be implemented in Austrian legislation. This includes the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, along with a number of individual directives. These are implemented in the Health and Safety at Work Act and the regulations enacted with it.

Occupational safety and health can be divided into two major areas:

1. Safety at work and health protection

This area covers all the technical and occupational health regulations and includes the Health and Safety at Work Act (ArbeitnehmerInnenschutzgesetz) and the regulations enacted with it.

2. Working hours and the protection of particular groups of employees

This covers protection regulations for certain groups of employees who require particular protection such as young people or pregnant women and mothers who are breast-feeding. It also covers regulations on working hours and rest periods.

This brochure is designed to provide an overview about which areas are regulated by the Health and Safety at Work Act and in which legal provisions more detailed information can be found. Due to the extensive nature of the regulations and the need for brevity in this brochure, it does not claim to be exhaustive. It was also not possible to cover transitional arrangements. However, the amendment to the Health and Safety at Work Act which was

carried out as part of the Act on the Reform of Health and Safety at Work was included.

It should also be noted that the Health and Safety at Work Act and the regulations enacted with it should – in as far as they apply to the workplace in question – either be displayed in printed form in a place which is easily accessible for employees, or provided in electronic form.

This also applies to other laws such as the Working Hours Act, the Employment of Children and Young Persons Act and the regulation enacted with it on employment bans and restrictions for young people

Introduction

- The Health and Safety at Work Act forms the basis of safety and health at work for employees in Austria.
- Industrial accidents not only cause a great deal of suffering for those affected, they also result in economic costs (personnel costs, material costs, lost yield and turnover, court costs and a loss of image).
- Targeted health and safety measures aim to avoid the danger of accidents, occupational diseases, work-related illness and permanent damage.
- But it is not only employers who have obligations, employees also have to cooperate in adhering to safety and health regulations.
- At the end of the day, however, employers are responsible for ensuring that their staff work in accordance with health and safety regulations.

Area of validity

- The Health and Safety at Work Act applies to employees, in other words to all those who work as part of an employment relationship or training relationship. This also includes temporary or agency staff. Other legal provisions apply to those employed by the federal or provincial governments and local authorities, in agriculture or forestry, in private households, and also to those who work from home.

Principles of risk prevention

- Employers have to implement the following general measures to prevent danger when designing workplaces, work processes, when selecting and using work equipment and agents, when deploying workers, and in all measures to protect employees:
 1. Avoidance of risks
 2. Assessment of risks which are not avoidable
 3. Combating danger at its source
 4. Taking the 'human factor' at work into account
 5. Taking technological advances into account
 6. Eliminating or reducing potential dangers
 7. Planning the prevention of risks
 8. Priority for general hazard protection before hazard protection for individuals
 9. The issue of suitable instructions to employees

General obligations

Risk Assessment

- In order to achieve workplaces of an optimal quality, all of the existing dangers and health risks for workers have to be systematically determined and evaluated. On the basis of the results, suitable measures for the avoidance of danger are then established. This entire process is referred to as evaluation.
- The results have to be recorded in the safety and health documents, which must be updated if necessary.

Deployment of workers

- When assigning tasks to workers, employers have to take the following into consideration:
 - Qualifications, constitution, age, gender and disabilities
 - Physical weaknesses or disabilities (e.g. impaired hearing or vision, cramps, or disorders involving seizures or attacks)
 - The avoidance of conditions which due to their nature can be of particular danger to women
 - Special consideration should be given to disabled employees

Coordination

- If employees of several employers are employed in one location (e.g. on a building site), the employers have to work together in implementing health and safety regulations (coordination).

Agency workers

- In the case of leased workers (e.g. agency workers), certain obligations are borne by the employment agency (e.g. records on suitability tests and follow-up tests) and others by the company using the agency workers (e.g. information about particular characteristics of the work-

place). The company using the agency workers is considered to be the employer in the sense of the Health and Safety at Work Act for as long as they work there, and the company therefore has to carry out the employer's tasks as laid down in the said Act.

Safety representatives

- In companies or workplaces which regularly have more than 10 employees, employers have to appoint a sufficient number of safety representatives. They represent the interests of employees in issues of safety and health, in coordination with the employees' organisations.
- Safety representatives inform, advise and support employees in this field. If no employees' organisations have been appointed, the safety representatives also have far-reaching rights in terms of involvement and receiving and passing on information. The responsibility of the employers cannot be transferred to them.

Information, instructions

- Workers have to be informed about the dangers to their health and safety and about measures to prevent danger.
- In addition, they also have to receive workplace-related instructions (training) in accordance with their level of experience. Verification must be provided that training has been carried out, and the training must be provided at regular intervals if necessary. Special training obligations are laid down for some areas.

The involvement of workers

- If employees' organisations (e.g. a works council) have been appointed, they shall have the right to involvement in safety and health issues. If there are no employees' organisations, safety representatives must be involved in these issues. If there are no safety representatives or employees' organisations in the company, all employees must be involved.

Independently of this, all employees have a right to be heard on these issues.

Maintenance, cleaning

- Workplaces have to be properly maintained and cleaned, including the sanitary and social facilities, electrical systems, work equipment, personal protective equipment, fire alarm and firefighting systems, and equipment for the provision of first aid and for saving people from danger. Special testing requirements are laid down for work equipment (see the Chapter 'Testing of work equipment').

Building sites

- Many regulations of the Health and Safety at Work Act also principally apply to building sites, although special regulations partly apply to them.

The design of workplaces and building sites

Definition

- Workplaces are all physical structures and places on the company premises in which workplaces are set up or to which employees have access as part of their work; i.e. also outdoors. Caravans, containers, site huts, air-supported structures and other similar facilities are also considered to be part of the physical structures which constitute the workplace.
- Workplaces include, for example, workrooms, corridors, stairways, storage rooms, machine rooms, toilets, changing and recreation rooms as well as all roads and walkways outdoors.
- Building sites are temporary workplaces where civil engineering and construction work is carried out. This includes excavation work and levelling, reconstruction, renovation, demolition or maintenance work.

The equipment of buildings

- Regulations on the following subjects have to be taken into account when designing buildings:
 - Floors, walls and ceilings
 - Doors and gates
 - Windows and glass roofs
 - Lighting
 - Electrical systems
 - Emergency lighting and safety signs
 - Fall protection systems and storage

Traffic routes and escape routes

- It must be possible to use roads and walkways safely. It must be ensured that the workplace can be left quickly and safely in the case of danger. There are regulations on the following:
 - Roads, walkways and stairways
 - Escape routes and exits
 - Fire zones and stairwells

Workrooms

- Workrooms such as offices, workshops, production halls and storage areas have to be suitable places for human beings to work in. There are regulations on the following:
 - Room heights and floor areas
 - Natural and artificial lighting – indoor climate and ventilation
- Similar regulations apply to other workrooms. These are rooms which are predominantly used for working.

Protection against explosions and fire

- Precautions must be taken to avoid fire and/or explosions. Suitable measure must be planned for firefighting and the evacuation of employees. There are regulations on the following:
 - Firefighting equipment and fire alarms
 - Measures for increased fire prevention (e.g. fire protection officers, evacuation exercises etc.)
 - Fire prevention groups and fire prevention officers if prescribed by the authorities

First aid

- Suitable provisions must be made so that first aid can be given in the case of injuries or sudden illnesses. There are regulations on the following:
 - First aid boxes and information
 - First aiders and first aid rooms

Sanitation

- There are regulations on the following:
 - Drinking water and washing facilities
 - Washrooms and toilets
 - Lockers and changing rooms

Social facilities

- Employees must have the possibility to warm up or cool food and drinks which they have brought with them and to spend their breaks in a suitable environment. In certain circumstances, separate recreation and on-call rooms must be provided. Recreation rooms, on-call rooms, living areas and overnight rooms have to be of an adequate size and contain suitable furnishings and fittings.

Protection of non-smokers

- Non-smokers must – in as far as the type of company permits this – be protected from the effects of tobacco smoke. In offices and comparable workrooms (e.g. main operating areas), separate rooms must be provided for smokers and non-smokers if possible. If this is not possible, smoking must be prohibited. Smoking is prohibited in first-aid rooms and changing rooms.

Work equipment

Definition

- Work equipment includes all machines, apparatus, tools, devices and systems which are for the use of the employees. These also include, for example: means of transport for persons or goods, lifts, ladders, scaffolding, boilers, pressurised containers, combustion plants, containers, silos, delivery lines or pipelines, automatic doors and gates as well as lift gates, tilting gates and roller shutters.

Requirements made of work equipment

- Work equipment may only be made available if it is suitable for the respective work in terms of safety and complies with the relevant legal provisions.

In the case of work equipment which carries the CE sign, employees can assume that it complies with the relevant legal provisions on safety and health requirements unless they have received other information.

The installation of work equipment

- When installing work equipment, care has to be taken that there is enough space in which to use it safely
 - All materials used and produced should be able to be introduced and removed safely.
 - Weight-bearing parts should not be subject to excessive strain (i.e. over the permissible limit).
 - Equipment does not catch on the clothing or body parts of the employees – and that maintenance areas are also sufficiently well lit.

In the case of equipment outdoors, measures must be taken against lightning, weather conditions and danger from electrical overhead lines.

The testing of work equipment

- For some work equipment, acceptance tests, regular examinations and tests after unusual events have to be carried out.
- The tests have to be carried out by suitable specialists and documented. If deficits are established, the work equipment may only be used again after these have been rectified. The test itself and the authorisation to carry out tests are regulated by other legal provisions.
- Work equipment has to be regularly maintained. Manufacturers' maintenance instructions have to be adhered to.

The use of work equipment

- Use also includes repairs, maintenance, cleaning, adjusting and preparation.
- The following principles of usage have to be adhered to:
 - Only use for the intended purpose
 - Adhere to instructions and electrical regulations
 - Use protection and safety devices
 - Do not use if there is damage present which could cause danger
 - Check work equipment for obvious defects before use
 - Ensure that nobody is endangered when putting equipment into operation
 - If you have noted any irregularities in work equipment, pass this information on when you finish your shift
 - Protection and safety devices should be attached to work equipment which has been taken out of service, or alternatively it should be rendered inoperative
- Employers must ensure via suitable information and instructions/training that employees adhere to the above-mentioned principles of use.

Dangerous agents

Definition

Dangerous agents are all materials which have at least one of the following characteristics:

Agents			
Inflammable	Explosive	Health hazard	Biological agents of the groups 2, 3 and 4
Oxidising, highly inflammable, easily inflammable	Highly toxic Toxic Damaging to health (less toxic) Corrosive/caustic Irritating Carcinogenic Mutagenic Dangerous for reproduction Sensitizing Definitions going beyond the Chemicals Act Fibrogenic Radioactive Biologically inert		Group 2: Illness and risk for employees; prevention and treatment possible Group 3: Serious illness and high risk for employees; prevention and treatment possible Group 4: Serious illness and high risk for employees; prevention and treatment not possible Note: biological agents are, for example, bacteria, viruses, parasites or fungi

The evaluation of agents

- Employers must ensure that they know whether any of the agents used are dangerous. In addition, they have to establish the properties of agents, classify dangerous agents and assess their risks. In case of doubt, information has to be obtained from the manufacturers or importers. In this process they can rely on the labelling according to the 1996 Chemicals Act, the Plant Protection Act, the Waste Management Act or the Biocidal Products Act. The fact that an agent is not labelled does not mean that it is not dangerous. The type, extent, duration of effect and levels of concentration should be established at regular intervals.

The prohibition and replacement of dangerous agents

- In the case of the use of dangerous agents, the Health and Safety at Work Act lays down measures with a mandatory order of priority. Principally there is an obligation to replace dangerous agents, to notify the authorities about them, and to prohibit their use.
- Agents which are carcinogenic, mutagenic, toxic for reproduction, and biological agents of the risk groups 2, 3 and 4 may not be used. Work processes which entail special risks in relation to these agents may not be used if an equivalent result can be achieved with a non-dangerous or at least less dangerous agent, or by using a different process. If it is technically possible, these agents should only be used in closed systems. All other dangerous agents must be replaced if the cost and effort involved is reasonable.

Storage of dangerous agents

- Employers must ensure that all necessary protection measures are taken with regard to the storage of dangerous agents, and that foreseeable dangers for employees are avoided. In addition, they have to ensure that unauthorised employees have no access to areas in which

agents are used which are carcinogenic, mutagenic, toxic for reproduction, or biological agents of the groups 2, 3 and 4. These areas also have to be equipped with easily visible signs.

Measures for the prevention of risks

- If dangerous agents are used, employers have to take measures to prevent risks in the following order of importance:
 1. The amount of the agent used must be reduced.
 2. The number of employees who are or could be exposed to their effects must be limited.
 3. The duration and intensity of exposure must be limited.
 4. Work processes and work procedures must be designed in such a way that no contact is possible.
 5. Dangerous agents must be fully collected and removed at the place where they are discharged or where they arise.
 6. State of the art ventilation measures have to be taken.
 7. If, in spite of taking all other measures, adequate protection of employees cannot be achieved, personal protective equipment has to be made available and used.
- Additional measures have to be taken if an increased danger of explosions can occur (e.g. during maintenance or cleaning work).

Limit values

- Maximum workplace concentrations for various chemical agents have been laid down on the basis of scientific findings (these are sometimes known as **MAK values**). These values are the maximum permissible concentrations of an agent as a gas, vapour or suspended matter in the air in the workplace. Up to this value, the health of employees is generally not impaired or unreasonably strained.

- Alongside these values, the Health and Safety at Work Act also includes so-called TRK values. These have to be laid down (according to the current state of technology) for dangerous agents for which it is not possible to exclude health risks and for which it is therefore not possible to set a MAK value. Currently, TRK values are practically only used for carcinogenic agents.
- MAK values must not be exceeded and TRK values must be as far below the limit value as possible. Measures need to be taken if limit values are exceeded.
- If a health-endangering agent is used for which no MAK or TRK values have been set, employers need to ensure that the concentration of this agent as a gas, vapour or suspended matter in the air of the workplace is always as low as possible.

Health surveillance

Suitability testing and follow-up tests

- In the following cases, employees may only be employed after suitability tests (before starting work), and follow-up tests (on a regular basis if the work continues) are carried out:
 - If there is a danger of an occupational disease and if an occupational health examination with regard to the specific work or effect of a substance (e.g. lead, benzole, toluene) has preventive significance
 - If a breathing apparatus (filter or container devices) is used frequently or for longer periods
 - Within the framework of gas rescue services
 - In the case of heat which places a particular strain on the body

Testing of the effects of noise

- In jobs which include noise which is hazardous to health, workers may only be employed if an occupational health test of their hearing ability has been carried out before they start work.
- If workers are exposed to such noise, employers must ensure that an occupational health test of their hearing is carried out at regular intervals.

Other special tests

- In the case of night work, the influence of agents which are known to be carcinogenic, and biological agents of the groups 2, 3 and 4, workers can be subject to special tests at their own request.

Authorised doctors

- Suitability and follow-up tests (under certain circumstances also repeated tests of hearing ability and other special examinations) have to be carried out by doctors who are authorised to do so. Details on the

procedures carried out at suitability and follow-up tests are laid down by the law. A list of authorised doctors is available from the Central Labour Inspectorate at the Federal Ministry of Labour, Social Affairs and Consumer Protection.

- Specific records have to be kept on suitability and follow-up tests.

Costs of examinations

- Employers have to bear the costs of suitability and follow-up examinations as well as regular tests of hearing ability, as well as for other examinations, unless they take place at the expense of a health insurance institution.
- For work or effects which can cause occupational disease, employers are entitled to reimbursement of their costs by the relevant work accident insurance institution.

Work processes and workplaces

Work processes

- Work processes have to be prepared, designed and carried out in such a way that effective protection of the lives and health of workers is achieved (reduction of monotony, one-sided strain, time pressure etc.) Their work should, if possible, be able to be carried out wholly or partly in a sitting position.

Workplaces

- Workplaces must be set up and designed in such a way that employees can carry out their work with as little danger as possible. It must be ensured that nothing can collapse, fall over, or slip off.
- At workplaces with a heightened risk of accidents or remotely situated workplaces, employees may only work alone if effective monitoring is ensured.
- Permanent workplaces may only be set up outdoors and in rooms which are not enclosed on all sides if this is necessary for operative reasons. In such cases, however, employers have to provide the greatest possible protection against the weather.

Specialist skills

- Proof of specialist skills has to be provided in order for workers to carry out certain tasks such as blasting work, driving forklift trucks or operating cranes.

Effects and stress factors

Manual handling of loads

- The manual shifting of loads which involves physical risks – particularly for the musculoskeletal system – must be avoided. If this is not

possible, organisational measures must be taken or aids must be made available.

Noise

- The stress caused by noise during work has to be kept to the lowest level which is practically possible. In any case, efforts must be made to reduce noise as far as possible by means of technical and other measures.

Other effects and stress factors

- Workplaces and work processes must additionally be designed in such a way that vibrations and other physical effects and other stress factors (such as dazzling light, unpleasant smells, heat, cold, wet, damp etc.) are kept as low as possible.

Personal protective equipment (PPE)

- PPE must be made available if dangers cannot be sufficiently avoided or limited by technical protection measures or organisational measures. Workers are obliged to use PPE, and employers are responsible for ensuring that they do so.
- The PPE must correspond to the applicable safety and health requirements, be suitable for the respective usage, and fit well.

Display screen workplaces

- Display screen workplaces must be designed ergonomically. To this end, appropriate devices and working tables, surfaces and seating as well as user-friendly software have to be provided. The employer has to arrange activities so that daily work in front of computer screens allows for regular breaks or is interrupted by other activities. Under certain circumstances, employers have to offer employees eye tests and visual ability tests. The costs of these measures are borne by the employers. In addition, special glasses must be provided to employees if required.

Safety support and occupational health care

Safety experts and occupational health physicians

- Safety experts and occupational physicians support employers in the fulfilment of their duties in the field of safety in the workplace, the protection of health, health promotion in relation to working conditions, and designing work as humanly as possible. They also advise employees, safety representatives and employees' organisations in this field.
- They have to be consulted by employers on all these issues. If necessary, other specialists (e.g. from the field of psychology) must be involved.
- Other obligations of preventive specialists include:
 - Keeping records on the time they were deployed for and the activities they carried out
 - Presenting summarised reports on their activities including proposals to improve working conditions
 - Cooperating with safety experts, occupational physicians, other specialists and workers' organisations
 - Providing support at building sites and external work locations
 - Reporting shortcomings to the employers or other persons responsible for adherence to occupational safety and health regulations, and also to employees' organisations.
- Only persons who have undergone the required training can be appointed as a safety expert or occupational physician. Preventive specialists have to be employed for a specific number of 'preventive hours' per calendar year. A defined number of inspection tours also have to be carried out. These figures are based on the number of staff in the workplace. Neither of these specialists may be subject to directives in their work. They report directly to employers or to those persons who are responsible for adherence to occupational safety and health regulations.

- There are a number of ways of appointing preventive experts:
 - The company has its own safety experts and occupational physicians
 - If the employers do not have suitable personnel, these are the alternatives:
 - External preventive experts/occupational physicians
 - A safety support and occupational health centre
 - The Central Labour Inspectorate at the Federal Ministry of Labour, Social Affairs and Consumer Protection draws up a list of safety support and occupational health centres every year, which is also sent to the employers' and employees' organisations.

Other specialists

- In addition, the work of other specialists in the field of prevention in companies, such as those in the branches of toxicology, chemistry and occupational psychology, can be counted toward the statutory prevention hours up to a maximum of 25 %.

Workplaces with up to 50 employees

- In these workplace there are also the following ways to appoint preventive experts:
 - The Preventive Centre of the Work Accident Insurance Institution (AUVA) (free!)
 - If the company does not have its own safety expert or occupational physician, the employers themselves can, under certain conditions, take responsibility for safety matters.

- In this case, the safety support work does not take place according to a specific number of prevention hours, but in the form of regular inspec-

tion tours by a safety expert and an occupational physician – if possible together.

The responsibility of employers

- The support work carried out by preventive experts does not relieve employers of their responsibility for adherence to occupational safety and health regulations. It is not possible to transfer responsibility in terms of the law to preventive experts.

Occupational safety and health committee

- Section 88 of the Health and Safety at Work Act obliges employers of workplaces in which there are at least 100 employees to set up an occupational safety and health committee. If three quarters of the jobs in the workplace consist of office jobs or comparable work, this obligation only applies from 250 employees onwards.
- The tasks of the occupational safety and health committee include the exchange of information and experiences, coordination, safety improvements, health protection and working conditions.
- If the company operates several workplaces for which occupational safety and health committees have to be set up, a central committee also has to be established.

Reporting and recording obligations in the health and safety at work act

- These are also obligations which the employers have to fulfil. There are also additional reporting and recording obligations according to other legal provisions.

Reporting obligations in the Health and Safety at Work Act

- The relevant **Labour Inspectorate** has to be notified of the following in writing:
 - The names of safety representatives
 - All fatal and other serious work accidents, unless the police have been notified
 - Accidents and dangerous incidents in mining work
 - The intended use of agents which are carcinogenic, mutagenic or toxic for reproduction
 - At least thirty days before biological agents of the groups 2, 3 and 4 are used
 - Circumstances which would lead to the withdrawal of a person's proof of specialist skills

The following work:

Construction work which will presumably last for longer than five days (this is different in the case of asbestos)

Work which is related to particular danger

Recording obligations in the Health and Safety at Work Act

- Employers have to keep the following records:
 - Safety and health protection documents
 - Proof that instructions have been given to workers
 - Accidents at work
 - Fatal accidents at work
 - Accidents at work which result in the injury of an employee and their absence from work for more than three calendar days
 - Events which almost led to a fatal or serious accident at work (near accidents)
 - Employees who are exposed to agents which are carcinogenic, mutagenic, toxic for reproduction, or biological agents of the groups 2, 3 or 4
 - Checks and maintenance of work equipment
 - Employees for whom suitability tests or follow-up tests are required

