



## 8.0 HEALTH & SAFETY AT WORK ETC. ACT, 1974 (HSWA)

The mass of legislation accompanying the HSWA is often viewed, quite wrongly, as being irrelevant or inapplicable to a voluntary organisation whose primary aim is to fly gliders. However, the Guidance Notes issued by the Health and Safety Commission at Appendix 5 make it clear that the Act applies to sports clubs and to members of voluntary organisations.

### 8.1 Objectives of the Act

The objectives of Part 1 of the Act are the following “general purposes”:-

- Securing the health, safety and welfare of people at work.
- Protecting people other than those at work against risks to their health and safety arising out of work activities.
- Controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing people from unlawfully having and using substances.

### 8.2 How the Objectives are to be Achieved

The Act established two bodies to promote the objectives of the Act and to ensure its provisions are implemented. They are: -

- Health and Safety Commission (HSC).
- Health and Safety Executive (HSE).

HSC's duties include promoting the objectives of the Act, carrying out and encouraging research and training, setting up formal inquiries and investigations into accidents, providing an advisory service and putting forward proposals to Ministers for Regulations under the Act.

HSE's duties are to implement the functions of the Commission, including:-

- The enforcement of legislation.
- The appointment of a Field Operations Directorate, the largest operational inspectorate in HSC, covering many sectors including construction, agriculture, general manufacturing, quarries, entertainment, education, health services, local government, crown, fire, police and domestic gas safety.
- The appointment of field staff (eg. Employment Medical Advisory Service EMAS) with special responsibilities.
- Approval of Codes of Practice and proposals for further Regulations.

### 8.3 Duties Under the Act

The Act imposes duties on everyone involved in work activity.

- Employers are responsible for the health, safety and welfare at work of all employees.
- Machinery and plant must be safe and without risk to health and be maintained in that condition.
- Employers must ensure that articles and substances are stored, handled and transported safely and without risks to health.
- Provision of information, instruction, training and effective communication to employees and all concerned with the workplace.
- Health and safety of the workplace and the working environment.
- The health and safety of non-employees.
- Provision for the appointment of safety representatives and safety committees to safeguard employee's interests.
- The provision of a written statement of safety policy.

### 8.4 Powers of Enforcement

The requirements of the Act are enforced by HSE, certain local authorities and other authorities. The methods of enforcement available are: -

- Serving a Prohibition Notice.
- Serving an Improvement Notice.
- Prosecution.

### 8.5 Prohibition Notices (Deferred and Immediate)

A prohibition notice may be served when an inspector considers that there is a risk of serious personal injury. The notice prohibits the carrying on of the work activity giving rise to the risk of injury. If the inspector considers that the risk of injury is imminent, the notice must take immediate effect and stop the work activity at once. If not, the prohibition notice must be deferred, stating that the work activity must be stopped within a certain specified time. Apart from this difference in timing, immediate and deferred prohibition notices are identical. Both kinds of notice can be issued for work activities which are about to begin as well as those already started. *Section 22.*

### 8.6 Improvement Notices

Inspectors can issue an improvement notice when they consider that health and safety legislation is being contravened. A





notice can be issued whether the legal requirements being broken are part of the Act or part of any relevant statutory provision. *Section 21*.

Inspectors must specify the legal requirements which they think are being broken and give reasons. The period allowed to put matters right must also be stated and may not be less than 21 days, as this is the time limit for taking an appeal to an industrial tribunal.

## 8.7 Offences, Penalties and Prosecutions

The Act creates a number of offences for which people can be prosecuted in the courts. The offences include:

- Failing to comply with the general duties imposed on employers, employees, the self-employed, people in control of premises, manufacturers etc., or failing to comply with any requirement imposed by Regulations made under the Act; *Section 33*.
- Obstructing or failing to comply with any requirements imposed by inspectors in the exercise of their powers; *Sections 33 (1) (e), (f) and (h)*.
- Failing to comply with any improvement or prohibition notice; *Section 33(1)(g)*.
- Failing to supply information as required by a notice issued by the Health and Safety Commission; *Section 33(1)(i)*.
- Failing to comply with a court order to remedy the cause of an offence; *Section 33 (1) (o)*.

Fines of up to £20,000 may be imposed by a magistrate's court and unlimited fines and / or imprisonment for up to two years by a crown court. Directors, managers or secretaries of corporate bodies may be subject to prosecution if found negligent.

## 8.8 How Does the Act Affect Gliding Clubs?

The Act has wide-ranging powers and responsibilities. Although it applies primarily to employers and their employees at the workplace, the Act also extends to "members of the public, whether within or outside the workplace and who may be affected by work activities" and also to "people who may be inside the workplace such as visitors, contractors and their employees".

HSE considers it good practice for a volunteer user to provide the same level of health and safety protection as they would in an employer/employee relationship,

irrespective of whether there are strict legal duties.

The BGA is primarily responsible for regulating operational safety within the sport. However, the Act should not be used to cut across the freedom of individuals voluntarily to take risks outside their working environment. Nevertheless, those voluntary bodies to whom the legislation does not apply should follow the good practice described.

Apart from the "general purposes" of the Act, gliding club committees and their officers should be aware of the following specific aspects which are of particular relevance where members of the public have access to the premises and are involved in the flying activities: -

## 8.9 Health and Safety Statement

There is a legal requirement for an employer with five or more employees to produce a written health and safety statement. The requirements are summarised in the free booklet HSC 6 "Writing a safety policy statement - advice to employers". Under Section 2(3) the written statement must: -

- State your general policy on health and safety.
- Describe the organisation and arrangements for carrying out your policy.
- Be brought to the notice of all your employees.
- Be revised whenever appropriate, and every revision must be brought to your employees' attention.

The statement must be signed and dated by the employer as a partner or a senior director of the business. There is no set format for the presentation of the statement but a specimen from The Soaring Centre at Husbands Bosworth is included as an example at Appendix 2 and a detailed checklist of items to be covered is included in HSC 6.

## 8.10 Risk Assessment

The HSW Act requires employers to undertake a careful risk assessment as an essential preliminary to establishing a health and safety policy. Where there are five or more employees any significant findings must be recorded. Hazards need to be identified, the levels of risk properly assessed and appropriate safeguards and





precautions put in place to ensure that the main risks are under control.

N.B. Definitions:

- **A hazard** is something with the potential to cause harm.
- **A risk** is the likelihood of the harm taking place.

The HSE provides a formal procedure for carrying out a risk assessment, considered in stages as follows: -

1. Identify Hazards.	Look for hazards which you could reasonably expect to result in significant harm under the conditions in your workplace, eg. Moving or falling cables, aircraft propellers, manoeuvring aircraft and vehicles, fire, chemicals etc.
2. Consider who might be harmed.	Groups of people who might be affected, e.g. Operators, members of the public, people sharing facilities, visitors?
3. Is the risk adequately controlled?	Are sufficient precautions already in place against the risks from the listed hazards? Do the precautions meet the standards set by legal requirement? Comply with a recognised industry standard? Represent good practice? Reduce risk as far as reasonably practicable? If so, then the risks are adequately controlled.
4. What further action is necessary to control the risk?	<p>What more could you reasonably do for those risks which were not adequately controlled? Give priority to the hazards likely to result in the most serious harm. Apply the principles below in the following order:-</p> <p>Remove the risk completely.</p> <p>Try a less risky option.</p> <p>Prevent access to the hazard eg. Guarding.</p> <p>Organise work to reduce exposure to the hazard.</p> <p>Issue personal protective equipment.</p> <p>Provide welfare facilities (eg. washing facilities for removal of contamination and First Aid).</p>

## CAA Risk Rating

The Safety Regulation Group of the CAA uses a matrix system to determine a comparative numerical rating of 1 to 25 for risk assessment, as follows:-

Risk Rating = The Severity of the Hazard X The Likelihood of the Occurrence.

Severity of the Hazard is rated thus:

Trivial	Minor Injury	Serious injury	Single fatality	Multiple fatality
1	2	3	4	5

Likelihood of the Occurrence is rated thus:

Highly Unlikely	Possible	Quite possible	Likely	Highly likely
1	2	3	4	5

For example, by using the matrix and multiplying the severity assessment by the likelihood assessment, the Risk Rating of a "highly likely multiple fatality" is 25 and of a "possible serious injury" is 6.

In practical terms, the highest risk ratings justify taking the greatest precautions.

## 8.10 Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) See HSE 31, RIDDOR 95.

Employers, the self-employed and persons in control of work premises have duties under the Regulations. Action is required in the following circumstances:-

### *In the event of death or major injury*

- If there is an accident connected with work and your employee, or a self-employed person working on your premises is killed or suffers a major injury (including as a result of physical violence), or a member of the public is killed or taken to hospital.
- You must notify the enforcing authority without delay and within ten days you must follow this up with a completed accident report (F2508).

### *Over-three-day injury*

- If there is an accident at work and your employee or self employed person working on your premises suffers an over-three-day injury, you must send a completed accident form (F2508) to the enforcing authority within ten days.

### *Disease*

- If a doctor notifies you that an employee suffers from a reportable, work-related disease, then you must send a completed disease report form (F2508A) to the enforcing authority.

### *Dangerous occurrence*

- If something happens which does not result in a reportable injury, but which clearly could have done, then it may be a dangerous occurrence that must be reported immediately (e.g. by telephone).
- Within ten days, follow this up with a completed accident report (F2508).

