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## 1

# Legislation: I

**Figure 1.1** The Health and Safety at Work Act 1974 (HSWA)

**Requires the employer to:**

- Provide safe equipment and a safe system of work.
- Provide safety in connection with the use, storage and transport of loads (including people) and substances hazardous to health.
- Provide information, instruction, training and supervision.
- Maintain a safe working environment.
- Provide a written health and safety policy statement.

**Requires the employee to:**

- Take reasonable care of their own health and safety and others which may be affected by their acts or omissions.
- Not damage or disable equipment.
- Be willing to receive training.

**Figure 1.2** The Management of Health and Safety at Work Regulations 1999 (MHSWR)

- Risk assessments are required to be carried out by a competent person. A competent person can be defined as a person having the necessary ability, knowledge, or skill to do something successfully.
- In order to carry out the risk assessments hazardous activities in the workplace need to be identified.
- **Hazard** is defined as something with the potential to cause harm.
- **Risk** is defined as the chance or likelihood that harm will occur.
- Risk needs to be reduced to: 'so far as is reasonably practicable.'

**Figure 1.3** Manual Handling Operations Regulations 1992 as amended in 2002 (MHOR)

**The employer has a duty to:**

- Avoid manual handling tasks so far as is reasonably practicable.
- Assess all handling tasks where there is a perceived risk.
- Reduce the risk as far as is reasonably practicable.
- Review all assessments as changes take place and/or at regular scheduled intervals.

**The employee has a duty to:**

- Follow appropriate systems provided for the handling of loads by the employer.
- Report accidents and *near miss events*.

This chapter covers three areas of legislation that relate to moving and handling. Chapter 2 will deal with four other areas. This is not a complete list but examples of the major pieces of legislation affecting moving and handling practice.

## The Health and Safety at Work Act 1974 (HSWA)

This act and its regulations impose a duty of care on every employer to 'ensure as far as is reasonably practicable, the health, safety and welfare at work of all employees'. It not only puts duties on the employer but the employees too. A résumé of the act is given in Figure 1.1.

The HSWA is a broad piece of legislation and could be described as an umbrella that covers a raft of other legislation that is more specific in its nature to moving and handling. The key areas are two-fold: first, the provision of equipment and a safe system of work to accompany this; second, the provision of information, instruction, training and supervision. The key to good moving and handling practice is not only good training. This should provide the handler with the skills to handle patients safely without injuring the patient or themselves. As important is that the handler has sufficient competent supervision in the workplace to ensure that good practice is maintained.

In addition the employees have to be willing to receive training. This puts responsibilities on the handler to ensure that they attend moving and handling training if it has been provided and they have been given the time to attend. The specifics of training are not defined, but terms such as 'understandable' and 'suitable and sufficient' are often used. This allows for a degree of creativity in delivering training so that on the job training can be as effective, if not more, than classroom-based training. The important thing is that any training carried out must be documented as to its content, date of delivery and where, with the handler and the trainer signing a document confirming this. If this does not happen then in the case of injury to staff or patient it is not possible to prove what training has taken place.

For more information on the HASWA see link below:  
[www.hse.gov.uk/legislation/hswa.htm](http://www.hse.gov.uk/legislation/hswa.htm)

## The Management of Health and Safety at Work Regulations 1999 (MHSWR)

These regulations set out broad duties for improving health and safety, and introduce the requirements for risk assessment and health and safety.

The MHSWR require employers to carry out risk assessments on tasks considered to be hazardous in the workplace and reduce risks to a reasonably practicable level. These risk assessments must be carried out by a competent person.

A résumé of the main terms of the regulations is given in Figure 1.2. The term reasonably practicable is used in the regulations and there is a definition of this term below.

*Reasonably practicable* means that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters including:

- a The likelihood of the hazard or the risk concerned occurring.
- b The degree of harm that might result from the hazard or the risk.
- c What the person concerned knows, or ought reasonably to know, about the hazard or risk, and ways of eliminating or minimising the risk.
- d The availability and suitability of ways to eliminate or minimise the risk.
- e Assessing if the cost of eliminating or reducing the risk is grossly disproportionate to the actual risk.

The general terms of the MHSWR can be easily applied to moving and handling activities, but the Manual Handling Operations Regulations 1992 as amended in 2002 (MHOR) are regulations that apply directly to the area.

## Manual Handling Operations Regulations 1992 as amended 2002 (MHOR)

These regulations again define the responsibilities of employers and employees.

The MHOR also gives us a definition of manual handling:

- Any transporting or supporting of a load (including the lifting, putting down, pushing, pulling, carrying or moving thereof) by hand or bodily force.

The definition of a load by the Health and Safety Executive (HSE) defines it as 'a discrete moveable object. This includes, for example, a human patient receiving medical attention...'

A résumé of the MHOR is given in Figure 1.3.

The interpretation of the MHOR directly affects all moving and handling practice. Avoiding patient handling is usually about maximising patient independence and constitutes the first key safe principle of moving and handling (see Chapter 5, Key safe principles of moving and handling). Assessing risk is key to all good patient handling and forms a cornerstone of good practice and the MHOR gives us a framework to carry this out (see Chapter 7, Risk assessment). The understanding of the risk assessment process allows the handler not only to 'follow appropriate systems provided for the handling of loads by the employer' but give them the tools to change the way the patient is moved as the patient condition changes.

For more information on the MHOR see link below:  
[www.hse.gov.uk/pubns/books/123.htm](http://www.hse.gov.uk/pubns/books/123.htm)