

## Appendix 4

### Health and Safety at Work Act 1974 Explanatory Note - its application in the workplace.

#### 1. The Health and Safety at Work Act 1974 c. 37 states the following:

“(6) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

(7) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in [subsection (4)]<sup>2</sup> above, to establish, in accordance with regulations made by the Secretary of State, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

#### 2. The Safety Representatives and Safety Committees Regulations 1977/500 states the following:

##### 9. — Safety committees

(1) For the purposes of section 2(7) of the 1974 Act (which requires an employer in prescribed cases to establish a safety committee if requested to do so by safety representatives) the prescribed cases shall be any cases in which at least two safety representatives request the employer in writing to establish a safety committee.

(2) Where an employer is requested to establish a safety committee in a case prescribed in paragraph (1) above, he shall establish it in accordance with the following provisions—

(a) he shall consult with the safety representatives who made the request and with the representatives of recognised trade unions whose members work in any workplace in respect of which he proposes that the committee should function;

(b) the employer shall post a notice stating the composition of the committee and the workplace or workplaces to be covered by it in a place where it may be easily read by the employees;

(c) the committee shall be established not later than three months after the request for it.”

#### 3. How are the regulations enforced?

If an employer does not comply with the regulations, the employer will be committing an offence. Health and safety inspectors (from HSE and local authorities) may enforce the

regulations where there is no evidence of consultation. They may also enforce the regulations if an employer fails to comply with its legal duties on procedural matters.

**4. In addition, HSE guidance gives the following advice to employers:**

By law, an employer must consult all employees on health and safety matters. Some workers, who are self-employed, are still classed as employees under health and safety law.

The law does not state when an employer must consult, or for how long, but does say it must be 'in good time'. In practice, this means an employer has to allow enough time for its employees to consider the matters being raised and provide them with informed responses.

If at least two health and safety representatives request, in writing, that a safety committee be formed within the workplace, the employer must establish such a committee within three months of the request.