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Health and safety obligations in relation to different types of activity, including risk prevention, information and training

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Modul	Sachverhalt
Leistungsschlüssel	99154088000000
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Leistungsbezeichnung II	Health and safety obligations by activity
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Quellredaktion	Bund
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt
Leistungsgruppierung	SDG allgemeine Rechte und Pflichten (154)

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Verrichtungskennung	
SDG-Informationsbereich	Gesundheits- und Sicherheitsvorschriften im Zusammenhang mit verschiedenen Arten von Tätigkeiten, einschließlich der Risikovermeidung, Information und Ausbildung
Lagen Portalverbund	Befähigungs- und Sachkundenachweise (2010200), Arbeitssicherheit (2030500), Anlagenbetrieb und -prüfung (2120100), Prüfung und Nachweise für Sachkunde und Sicherheit (2120300), Abfall, Schadstoffe und Emissionen (2130100), Tier-, Pflanzen- und Naturschutz (2130200), Messen, Straßenfeste und Sonderveranstaltungen (2150100), Sonderöffnungszeiten und -genehmigungen (2150200)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	08.12.2022
Fachlich freigegeben durch	Federal Ministry of Labour and Social Affairs
Handlungsgrundlage	https://bmas.de/DE/Themen/Arbeitsschutz/erklaerung-arbeitsschutz.html https://www.gesetze-im-internet.de/arbschg/
Teaser	Here you will find information on occupational health and safety and the applicable laws, regulations and obligations of employers.
Volltext	Occupational health and safety The legislation on occupational health and safety serves to ensure the health and safety of workers at work by preventing occupational accidents and work-related health risks. Occupational health and safety measures also include measures to ensure that work is conducted in a humane manner. This legislation covers all areas of activity, namely both private and public service employment. Important cornerstones of occupational health and safety at work are the act on the implementation of measures of occupational health and safety to encourage improvements in the health and safety

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protection of workers at work (working conditions act) (Arbeitsschutzgesetz, ArbSchG) and the act on occupational physicians, safety engineers and other occupational safety specialists (occupational safety act) (Arbeitssicherheitsgesetz, ASiG). In accordance with the working conditions act, employers must perform an assessment of health risks in the workplace and take the necessary protection measures. The occupational safety act sets out the obligations of employers with regard to the appointment of occupational doctors and safety officers. Working conditions regulations have been adopted on the basis of the working conditions act that set out the obligations of employers and occupational doctors in greater detail.

Working conditions act

The following basic obligations apply to employers:

Occupational health and safety system

Employers must ensure there is a functioning occupational health and safety system in place in the company. This means that they are responsible for incorporating occupational health and safety measures into the operational processes and for ensuring that suitable contact persons are appointed within the company to monitor compliance with occupational health and safety requirements by the employer, managers and other individuals responsible in this matter. The occupational safety act contains provisions on the assistance to be provided by specialist occupational safety officers and occupational doctors (see below).

Risk assessment

Identification of hazard factors

Employers must carry out a risk assessment. This means they must assess the working conditions in their company from an occupational health and safety point of view. The risk assessment allows employers to gain a clear overview of the risks present so that they can then take the correct protection measures.

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This procedure necessarily depends on the type and size of the business in question and the relevant risk factors (e.g. workplace-related, equipment-related or activity-related risks). Employers must also take into account psychological stress factors when assessing occupational health and safety risks.

Objectives of the risk assessment

Once the risk factors have been identified, the risk assessment procedure involves determining the appropriate and necessary protection measures. These may be of a technical, organisational (situational prevention) or personal (behavioural prevention) nature. Situational prevention measures take priority. In addition, the employer must identify particular risks for groups of employees eligible for special protection (e.g. young people and employees with disabilities).

When implementing occupational health and safety measures, employers have some flexibility to take into account the nature of the company. The effectiveness of the protection measures must be assessed and adapted to new circumstances, where necessary.

In order to help employers perform the risk assessment, sector and activity-specific guidebooks are available on how to assess potential risk factors and determine what protection measures should be taken.

Documentation of the risk assessment

Employers must document the results of the risk assessment and the necessary occupational health and safety measures taken. This applies to all companies, regardless of their size. Small and medium-sized enterprises (SMEs) with 10 employees or less are subject to reduced documentation requirements.

Preventive occupational health care

Employers have an obligation to allow employees to undergo regular preventative occupational health checks, depending on the level of risk associated with

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their activities. This serves to assess the individual interactions between work and physical and mental health, in particular education and counselling. It also focuses on early detection and the prevention of work-related diseases, and maintaining employability.

In the case of certain risks in the workplace, employers must actively offer employees preventative occupational health care, e.g. for working with screens. If the risks are particularly high, it is obligatory for precautions to be taken, e.g. for employees working with biological substances (see the information below on the regulation on preventative occupational medicine [Verordnung zur arbeitsmedizinischen Vorsorge, ArbMedVV]). Employers may not charge employees for the cost of preventative occupational health care.

Training

Employers must provide training to employees so that they are able to recognise and respond appropriately to accident and health risks. Such training must be precisely tailored to the working conditions of the company in question. Some of the health and safety regulations, e.g. the hazardous and biological substances regulation, specify that this training must include general occupational health advice.

Special risks and emergency measures

Employers must ensure that only employees with the appropriate training are able to enter particularly dangerous work areas. In addition, they must specify special protection measures for employees who are or could be exposed to an immediate and significant risk. Moreover, they are obliged to implement the necessary measures regarding first aid, firefighting and evacuation in the case of emergencies.

Accident reporting (IVa4)

Employers must inform the relevant accident insurance institution and the occupational health and safety authority of any accidents that occur within the

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company involving its employees if those employees are either killed or injured to such an extent that they are unable to work for more than 3 days.

Health and safety regulations

The working conditions act is implemented by a number of health and safety regulations with regard to certain risks in the workplace.

Workplace regulation

The workplace regulation lays down the requirements for employers on the setup and functioning of workplaces and on working with screens.

Industrial safety regulation

The industrial safety regulation lays down safety requirements for the use of work equipment to ensure the health and safety protection of employees. It provides employers with a comprehensive protection plan for all risks relating to equipment.

Hazardous substances regulation

The hazardous substances regulation sets out occupational health and safety requirements for employees working with hazardous substances, or for employees performing tasks that result in the creation or release of hazardous substances.

Biological substances regulation

The biological substances regulation makes it mandatory for employers to take the necessary protective measures for employees performing tasks during which biological substances are created, used or released.

Regulation on preventative occupational medicine

This regulation lays down requirements for employers and occupational doctors on preventative occupational medicine (see above). It also provides further

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information on the tasks of occupational doctors under the occupational safety act (see below).

Regulation on health and safety when using personal protective equipment at work

This regulation sets out specific details regarding the requirements of the working conditions act in cases where employers provide their employees with personal protective equipment (PPE) in order to protect them against a risk to their health and safety at work.

Regulation on the protection of workers against risks relating to noise and vibrations

This regulation introduces an obligation for employers to take the necessary measures to prevent any harm to the health of employees exposed to noise or vibrations.

Regulation on the protection of workers against risks relating to artificial optical radiation

This regulation lays down requirements for employers regarding the protection of employees against artificial optical radiation, such as laser devices, that may be harmful to their health.

Regulation on the protection of workers against risks relating to electromagnetic fields

This regulation lays down requirements on the protection of employees against risks to their health and safety in the workplace as a result of the effects of electromagnetic fields.

Load handling regulation

This regulation sets out an obligation for employers to implement protection measures in connection with the carrying and lifting of loads that, as a result of their weight or other properties, may pose a risk to the health of employees, in particular a risk of lower back injury.

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Construction site regulation

The construction site regulation lays down requirements regarding the health and safety of employees on construction sites. Unlike other working conditions legislation, this regulation is targeted specifically at building contractors. As the contractor of the construction work, the building contractor is obliged to take coordination measures. This is primarily intended to enable the implementation of measures to avoid site-wide risks and the allocation of the corresponding responsibilities.

Occupational safety act

In accordance with the occupational safety act, employers must appoint occupational doctors and safety officers to advise and assist them with respect to occupational safety and accident prevention, for example during performance of the risk assessment. Occupational doctors and safety officers have an obligation to cooperate. In matters relating to the practice of their professional tasks, they are not subject to instruction from the employer.

The requirements laid down in the occupational safety act are clarified in greater detail in the German accident prevention regulation (Deutsche Gesetzliche Unfallversicherung, DGUV) Occupational doctors and safety officers (DGUV Rule 2) (Betriebsärzte und Fachkräfte für Arbeitssicherheit, DGUV-Vorschrift 2) adopted by the accident insurance institutions.

The accident insurance institutions have a prevention mandate which means that they must use all suitable means to ensure the prevention of accidents at work, work-related health risks and occupational illnesses. In order to achieve this goal, they have the authority to clarify or supplement working conditions legislation adopted at national level by way of separate, sectoral accident prevention regulations. The legal basis for this is the Seventh Book of the Social Code (Sozialgesetzbuch) (SGB VII).

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Authorities

The occupational health and safety authorities in the federal states are responsible for inspecting companies in order to monitor compliance with the requirements laid down in the working conditions act and take measures where necessary to ensure that compliance. The federal states coordinate their administrative actions within the commission for occupational safety and safety engineering of the federal states (Länderausschuss für Arbeitsschutz und Sicherheitstechnik, LASI).

The accident insurance institutions also monitor compliance with occupational health and safety rules in companies on the basis of their prevention mandate in accordance with the Seventh Book of the Social Code. In particular, they monitor compliance with the accident prevention regulations they have introduced.

The federal states and accident insurance institutions, as well as the federal state as legislator, work together under the joint German occupational health and safety strategy (Gemeinsamen Deutschen Arbeitsschutzstrategie, GDA) to optimise working conditions to ensure the health and safety of employees. A key element of the strategy is the obligation of all parties to identify common occupational health and safety objectives and areas of action. Those responsible for implementing the GDA are obliged to align their activities with a set of common principles and implement them by way of coordinated programmes.

Working hours act

The working hours act (Arbeitszeitgesetz, ArbZG) protects the health of employees by limiting the maximum number of working hours per day as well as by stipulating minimum break periods during work and minimum rest periods after work.

This act also includes conditions for agreeing flexitime arrangements. Night workers are subject to special protection. There is a general ban on working on

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Sundays and public holidays. Employees may only work on these days in exceptional cases.

Act on the protection of young people at work

The act on the protection of young people at work (Jugendarbeitsschutzgesetz, JArbSchG) protects young people under the age of 18, regardless of whether they are employed as trainees or workers. The law generally prohibits the employment of children, i.e. young people under the age of 15 and young people who are subject to compulsory full-time education. Protecting the health and safety of children and young people at work is even more important than it is for adults as they are less resilient and should therefore not be exposed to the same stresses. The act on the protection of young people at work and the regulation on the protection of children at work (Kinderarbeitsschutzverordnung, KindArbSchV) therefore protect children and young people from carrying out work that start too early, involve overly long hours, are too difficult, put them at risk or are unsuitable.

Authorities

The occupational health and safety authorities in the individual federal states are responsible for monitoring compliance with the working hours act and the act on the on the protection of young people at work. Employees have the right to file a complaint with these authorities in the case of problems within their company. They can do so via the online portals of the federal states:

<https://www.gesetze-im-internet.de/jarbschg/>

https://www.gesetze-im-internet.de/sgb_7/

https://dguv.de/en/prevention/rules_regulations/dguv-regulation_2/index.jsp

https://www.gesetze-im-internet.de/englisch_arbschg/index.html

https://www.gesetze-im-internet.de/englisch_asig/index.html

<https://mags.nrw/ansprechpartner-und-beratung-zum-arbeitsschutz-nrw>

<https://www.gesetze-im-internet.de/arbschg/>

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<https://www.gesetze-im-internet.de/jarbschg/>
<https://www.gesetze-im-internet.de/asig/>
https://www.gesetze-im-internet.de/sgb_7/
https://baua.de/EN/Topics/Work-design/Risk-assessment/_functions/Publications-search_Formular.html?nn=221b58dd-265b-475b-9574-225f5912918f
https://dguv.de/de/praevention/vorschriften_regeln/dguv-vorschrift_2/index.jsp
https://www.gda-portal.de/DE/Aufsichtshandeln/Gefaehrdungsbeurteilung/Gefaehrdungsbeurteilung_node.html
https://www.baua.de/DE/Themen/Arbeitsgestaltung/Gefaehrdungsbeurteilung/_functions/BereichsPublikationssuche_Formular.html?queryResultId=null&pageNo=0

Erforderliche Unterlagen
Voraussetzungen
Kosten
Verfahrensablauf
Bearbeitungsdauer
Frist
weiterführende Informationen

- Information/publications on occupational health and safety
- Occupational health and safety authorities in the federal states (only in German)
- Accident insurance institutions
- Prevention mandate of accident insurance institutions
- Joint German occupational health and safety strategy (Gemeinsame Deutsche Arbeitsschutzstrategie, GDA)
<https://dguv.de/de/praevention/index.jsp>
<https://lasi-info.com/ueber-den-lasi/arbeitsschutzbehoerden-der-laender>
<https://dguv.de/de/praevention/index.jsp>
https://baua.de/DE/Home/Home_node.html
<https://lasi-info.com/ueber-den-lasi/aufgaben-des-lasi>
https://gda-portal.de/EN/Home/Home_node.html
<https://www.bmas.de/DE/Soziales/Gesetzliche-Unfallversicherung/gesetzliche-unfallversicherung.html>
<https://bmas.de/EN/Services/Publications/publications>

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https://gda-portal.de/DE/Home/Home_node.html
https://bmas.de/DE/Service/Publikationen/Broschuere_n/a120-arbeitszeitgesetz.html
<https://dguv.de/en/prevention/index.jsp>
<https://bmas.de/DE/Arbeit/Arbeitsschutz/arbeitsschutz.html>
https://www.gda-portal.de/DE/Home/Home_node.html
https://dguv.de/de/praevention/vorschriften_regeln/vorschriften/index.jsp
<https://bmas.de/DE/Themen/Soziale-Sicherung/Gesetzliche-Unfallversicherung/Ueberblick-gesetzliche-unfallversicherung.html>
<https://bmas.de/EN/Social-Affairs/Social-insurance/social-insurance.html>
<https://bmas.de/DE/Service/Medien/Publikationen/a707-klare-sache-jugendarbeitsschutz-und-kinderarbeitsschutzverordnung.html>
https://dguv.de/de/praevention/vorschriften_regeln/vorschriften/index.jsp

Hinweise

Rechtsbehelf

Kurztext

Ansprechpunkt

Zuständige Stelle

Formulare

Ursprungsportal

Gesundheits- und Sicherheitsvorschriften im Zusammenhang mit verschiedenen Arten von Tätigkeiten, einschließlich der Risikovermeidung, Information und Ausbildung, Health and safety obligations in relation to different types of activity, including risk prevention, information and training