

SWU Trade Union Advice and Representation Officer **Julie Long** provides some useful information



The Health & Safety at Work Act (1974) (HASAWA) places a legal duty on employers to ensure, so far as reasonably practicable, the health, safety and welfare of employees and others are kept safe. The Health & Safety Executive (HSE) is responsible for enforcing the act.

The Aberfan disaster was the catastrophic collapse of a colliery spoil tip around 9.15am on 21 October 1966. The tip had been created on a mountain slope above the Welsh village of Aberfan, near Merthyr Tydfil, and overlaid a natural spring. The collapse was caused by a build-up of water in the accumulated rock and shale that made up the spoil tip, which suddenly started to slide downhill, in the form of slurry, and covering Pentglas Junior School. Of the 144 people who died in the disaster, 116 were children.

The tip was the responsibility of the National Coal Board (NCB). Following the disaster an official enquiry was chaired by Lord Justice Edmund Davies and the blame was laid squarely on the NCB. However, neither the NCB nor any of its employees were prosecuted, and the organisation was not fined.

In 1969 Lord Robens the head of the NCB was selected by the Labour MP Barbara Castle to chair a committee into workplace health and safety. This led to the 1972 Robens Report which controversially championed the idea of self-regulation by employers. The report itself led to the HASAWA (1974) and the creation of the Health & Safety Commission and the HSE. Michael Foot the then Secretary of State for the Labour Party introduced the HASAWA on 22 March 1974.

The Aberfan disaster added to a growing sense that the risks the public were exposed to by industry had to be controlled. This mood for change eventually led to the enactment of the HASAWA 1974. The primary aims of the act being to protect both workers and non-workers from the potential and inherent risks of workplace activities. The implementation of the Act has significantly reduced the number of deaths and serious accidents in the workplace. The HSE published statistics in 2018 showing that in recent decades there have been large reductions in both fatal and non-fatal injuries in workplace settings. With an estimated 84% reduction in both types of injury since the introduction of the Act in 1974.

The three main objectives of the HASAWA 1974 are as follows:

- Ensuring employees' health, safety, and welfare at work
- Protecting non-employees against the health and safety risks arising from work activities
- Controlling the keeping and use of explosive or highly flammable or dangerous substances

Since the original Act became law in 1974 there have been several, further, pieces of health & safety legislation passed which inform and enhance the original legislation. Two key examples of this supplementary legislation are the Health & Safety (Display Screen Equipment) Regulations (1992), and the Management of Health & Safety at Work Regulations (1999).

However, perhaps the two most pertinent pieces of legislation that affect both employers and employees during the current coronavirus pandemic are The Personal Protective Equipment Regulations 2002 and the Manual Handling Operations Regulations 1992 (as amended 2002).

The main provisions of the Personal Protective Equipment Regulations 2002 require employers to:

- ensure that suitable personal protective equipment (PPE) is provided free of charge "wherever there are risks to health and safety that cannot be adequately controlled in other ways." The PPE must be 'suitable' for the risk in question, and include protective face masks and goggles, safety helmets, gloves, air filters, ear defenders, overalls and protective footwear
- provide information, training, and instruction on the use of this equipment.

The main provisions of the Manual Handling Operations Regulations 1992 (as amended 2002) require employers to:

- avoid (so far as is reasonably practicable) the need for employees to undertake any manual handling activities involving risk of injury
- make assessments of manual handling risks and try to reduce the risk of injury. The assessment should consider the task, the load and the individual's personal characteristics (physical strength, etc.)
- provide workers with information on the weight of each load.

At the beginning of the Coronavirus pandemic the Advice & Representation (A&R) duty line was receiving a high volume of calls from members expressing concerns about them not having the appropriate protective equipment to undertake their duties safely. For example, employers not providing hand sanitisers and masks for front line social workers who had to undertake visits to service user's homes. The advice we have given to our members is to remind their employers that they are owed a duty of care by the employer under the HASAWA 1974. We also recommend that members should bring to their employer's attention the Personal Protective Equipment Regulations 2002, and the Manual Handling Operations Regulations 1992 (as amended 2002). Social workers were also sharing that they were expected to deliver personal care and administer medication alongside delivering social work services. Apparently, there was little or no training on offer for these crucial additional tasks.

Furthermore the A & R Services duty line has recommended that if the employer did not address health and safety concerns raised by their employees, and were not following government advice, members should consider reporting their employer to the HSE if no appropriate remedial action was taken by the employer. The HSE can, as the government agency responsible for the encouragement, regulation and enforcement of workplace health, safety and welfare, issue fines for non-compliance and can also serve closure notices where and when necessary. HSE inspectors have significant powers to enter premises, inspect and investigate, take measurements, samples, and photographs. HSE inspectors can require an area or machine to be left undisturbed. Similarly, they can seize, render harmless or destroy dangerous items and obtain information and

statements from persons deemed by the inspector to have relevance to the inspector's investigation.

Breaching health and safety regulations is a criminal offence and can lead to substantial fines and/or imprisonment. HSE inspectors or local Environmental Health Inspectors may issue an improvement or prohibition notice instead of prosecuting were such action is deemed appropriate.

If, however, members feel that their health & safety is being compromised by the work activities their employer requires them to undertake they should raise their concerns with their employer.

Members should ensure they:

- Make a written record of their concerns, which includes the date, time, and the name of the person they raised the concern with
- Include what exactly their employer has instructed them to do
- Report their concerns to their H&S representative if there is one in the workplace

However, if after these steps appropriate remedial action is not taken by the employer, we would recommend that consideration is given to reporting these matters to their regional Health & Safety Office.

Alternatively, if you would like to discuss any H&S concerns with a duty officer please contact our duty line on 0121 622 8413 to make an appointment.