

# FIRE SERVICES EXAMINATIONS BOARD

## STUDY NOTE

EXAMINATION

STATION OFFICERS' EXAMINATION

PAPER

HUMAN RESOURCE MANAGEMENT

SUBJECT

HEALTH, SAFETY AND WELFARE

ITEM

HEALTH AND SAFETY ENFORCEMENT AGENCIES

STUDY NOTE No.

3310

### *INTRODUCTION TO THE STUDY NOTE*

*This study note has been prepared as the basis of study in connection with the qualifying examinations for promotion.*

*Candidates will be expected to demonstrate knowledge of the information contained in the study note and understand how it should be applied:*

*The 'References' made at the end of the Study Note are included for information only and candidates will not be expected to study these as part of the bibliography.*

## HEALTH AND SAFETY ENFORCEMENT AGENCIES

### 1. Introduction

Station Managers should understand how the Health and Safety at Work Act 1974 (HASWA) is enforced and how Health and Safety Executive (HSE) Inspectors operate when carrying out inspections.

### 2. The Health and Safety Commission and Health and Safety Executive

Two bodies have been established by the HASWA to enforce it and any associated legislation.

- (a) The Health and Safety Commission; and
- (b) The Health and Safety Executive.

### 3. The Health and Safety Commission (HSC)

The HSC has wide powers to supervise the legislation and develop new policies. Their duties include:

- (a) Promoting the objectives of the HASWA.
- (b) Providing advice to government.
- (c) Carrying out research and training.
- (d) Directing inquiries and investigations.
- (e) Providing an information and advisory service.
- (f) Preparing proposals for new legislation and submitting them to Ministers.
- (g) Approving Codes of Practice and Guidance on the operation of health and safety regulations.

### 4. The Health and Safety Executive (HSE)

The HSE is the executive arm of the HSC. The responsibilities of the HSE include:

- (a) Enforcing the legislation through their inspection programmes and investigations into reported serious accidents;
- (b) Developing health and safety laws, codes and standards; and
- (c) Providing advice and information and issuing licences to employers and others.

## 5. HSE Inspectorate

The HASWA provides for the appointment of HSE Inspectors. They have wide powers and operate from HSE Area Offices.

In addition, most area offices have groups with responsibility for developing health and safety policy in relation to one or more work sectors. These are called National Interest Groups.

Fire Service issues are handled by the National Interest Group (NIG) for Crown, Fire and Police.

## 6. Powers of HSE Inspectors

Under the HASWA, HSE Inspectors have a wide range of powers. Among other things they can:

- (a) Enter premises at any reasonable time; (or at any time if they think a work related situation is, or may be, dangerous);
- (b) Carry out examinations and investigations;
- (c) Direct that those premises or any part of them be left undisturbed so long as is reasonably necessary for the purpose of any examination or investigation;
- (d) Take measurements, photographs and samples;
- (e) Take possession of articles or substances and arrange for them to be dismantled or tested;
- (f) Require information and take statements from people they think can help in any investigation;
- (g) Inspect and copy documents; and
- (h) Issue improvement and prohibition notices to remedy contravention of the health and safety legislation and prosecute people and companies.

## 7. Purpose of Inspections

HSE Inspectors visit employers in order to:

- (a) Make sure that risks from work activities are properly managed;
- (b) Help people who have responsibilities under the law, or to talk over a particular problem, often at an employers request;
- (c) Investigate accidents and ill health;
- (d) Investigate and help settle complaints about working conditions that could affect health, safety or welfare; and

- (e) Gather information, for example about technical developments or work related ill health and follow up earlier enforcement action.

## **8. Conduct of Inspections**

This will depend upon why the inspection is being made and the type of organisation being visited. As a rule, places with more serious hazards or risks, or where hazards have been poorly controlled in the past, are visited more often.

Inspectors generally call by appointment and it can be expected that they will normally wish to:

- (a) Talk to managers, supervisors, employees, health and safety representatives and others, including any health and safety advisers;
- (b) Look around parts of the premises; and
- (c) See paperwork such as health and safety policies, risk assessments, equipment maintenance and inspection records, training and accident records.

Inspectors have a legal duty to tell employees about workplace health, safety and welfare. They do this by talking to safety representatives and employees during visits and by possibly sending a letter to employees and/or their representatives.

At the end of the visit the Inspector will tell the employer what further action, if any, HSE is going to take. The Inspector may ask the employer to confirm in writing the action agreed.

## **9. Enforcement Action**

If Inspectors find something unsafe or not complying with the requirement of the law they will use their judgement to make sure that employers in similar circumstances are treated in a similar way. Their main aim is to help and advise, but if they find reckless disregard for the law, they will have to take action. This means Inspectors will require action in proportion to the risks concerned.

Formal enforcement powers will only be used when it is the most appropriate way of dealing with the matter. Inspectors might:

- (a) Issue a warning or advice, either orally or in writing, on the steps needed to put things right; or
- (b) Issue an improvement or a prohibition notice.

## 10. Improvement Notices

Inspectors can issue an improvement notice when they consider that health and safety legislation is being contravened. A notice can be issued when the legal requirements being broken are part of the Act or are part of any other relevant statutory provision.

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.

Inspectors may state in the notice what action they think may be necessary to put matters right and may in doing so refer to, for example, an Approved Code of Practice or other published guidance such as British Standards.

## 11. Prohibition Notices (Immediate and Deferred)

A prohibition notice may be issued when an inspector considers that there is a risk of serious personal injury. The notice prohibits the carrying on of the work activity that gives rise to the risk of injury. If an 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.

## 12. When Notices are Issued

- (a) The Inspector will inform the person concerned about their right to appeal to an industrial tribunal and will provide a form to use for this purpose;
- (b) A copy of the notice is provided for employees and the notices are put in a register which is open for public inspection; and
- (c) The Inspectors will follow up notices to check what has been done. Failure to comply is a serious offence, which may lead to prosecution.

## 13. Service of Notices

An 'Improvement Notice' is served on the person responsible for the breach of the legal requirement. Using the Fire Service as an example, the notice would, therefore, be served on the employer, ie the Fire Authority.

Should there be a need to serve a 'Prohibition Notice', this is served on the person carrying out or in control of the activities concerned, whether or not that person would also be responsible for any breach of legal requirements. Again using the Fire Service as an example, the prohibition notice might, therefore, be served on a Station Manager where a legal requirement has not been satisfied on a fire station.

## 14. Withdrawal of Notices

Once any remedial action necessary to comply with a notice has been taken, the notice ceases to have effect and there is no need for it to be withdrawn. However, in certain circumstances, the issuing Inspector may decide to withdraw an improvement or deferred prohibition notice, for example, if the situation that is giving rise to the notice changes.

## References

A Guide for Managers Volume 2