The OCR Guide to Legislation

Version 1

OCR

This guide on legislation has been produced by OCR to help you understand the acts and other regulations that you may come across as part of your studies or in the workplace. This guide has not been written to accompany a specific qualification but focuses on legislation that relate to many areas of both education and work environments. Other skills guides are available at www.ocr.org.uk.

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Disclaimer

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What is legislation?

Legislation is the term used to cover the laws governing us all.

In the UK there are three types of law:

- 'Common' law which is not written down but has come into being historically
- 'Statute' law which comes into being through an Act of Parliament
- European Union law.

A Bill is a draft law; it becomes an Act if it is approved by a majority in the House of Commons and House of Lords, and formally agreed to by the reigning monarch (known as Royal Assent). An Act of Parliament is a law, enforced in all areas of the UK where it is applicable.

Source: www.parliament.uk/business/bills-and-legislation/

This guide gives an explanation of some aspects of a range of statute laws (Acts). As the UK is a member of the European Union, some earlier Acts have been amended in recent years so that the EU law applies to all member countries. Sources of reference to full details of the legislation in this guide are given – as well as pointers towards other reliable sources of information about legislation.

Why is there legislation?

Legislation tries to ensure safety and fair treatment of all in every aspect of our lives.

Health and safety legislation is in place to provide a safe environment for employees and employers, as well as the general public. For example, the Health and Safety at Work Act requires a risk assessment to be carried out to identify workplace hazards – and measures put in place to control and minimise the hazards and risks. Both employees and employers need to be equally aware of their rights and responsibilities under the law – and any penalties if the law is not followed.

Consumer legislation gives the rights and responsibilities of suppliers and purchasers of goods and services. For example, if the consumer buys an item which is not safe and free from defects, the Sales of Goods Act gives the right to a refund, repair or replacement.

Other legislation is aimed at giving fair and non-discriminatory treatment to all citizens in a wide range of circumstances. For example, the Equality Act bans unfair treatment so that a person cannot be discriminated against or victimised due to their age, race, religion, disability etc.

The Data Protection Act allows a person the right to know what information an organisation holds on them and the right to correct information that is wrong.

The Human Rights Act (1998)

Anyone who is in the UK for any reason has fundamental human rights which the government and public authorities are legally obliged to respect.

These became law as part of the Human Rights Act (1998). They add to the rights and freedoms laid out in the European Convention on Human Rights.

Individuals have a responsibility to respect other people's rights and they must respect yours. Your human rights are:

- the right to life
- freedom from torture and degrading treatment
- freedom from slavery and forced labour
- the right to liberty
- the right to a fair trial
- the right not to be punished for something that wasn't a crime when you did it
- the right to respect for private and family life
- freedom of thought, conscience and religion, and freedom to express your beliefs
- freedom of expression
- freedom of assembly and association
- the right to marry and to start a family
- the right not to be discriminated against in respect of these rights and freedoms
- the right to peaceful enjoyment of your property
- the right to an education
- the right to participate in free elections
- the right not to be subjected to the death penalty.

If any of these rights and freedoms are breached, you have a right to an effective solution in law, even if the breach was by someone in authority, such as, for example, a police officer.

Source:

www.direct.gov.uk/en/governmentcitizensandrights/yourrightsandresponsibilities/dg_4002951

Further details:

http://news.bbc.co.uk/1/hi/uk/946400.stm

www.liberty-human-rights.org.uk/human-rights/human-rights/the-human-rights-act/index.php

The Equality Act (2010)

This Act bans unfair treatment of individuals or groups because of 'protected characteristics' that they have. It helps achieve equal opportunities at work and in our wider society.

The protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

The Equality Act sets out the different ways in which it is unlawful to treat someone, such as direct and indirect discrimination, harassment, victimisation and failing to make a reasonable adjustment for a disabled person.

Source:

www.homeoffice.gov.uk/equalities/equality-act/

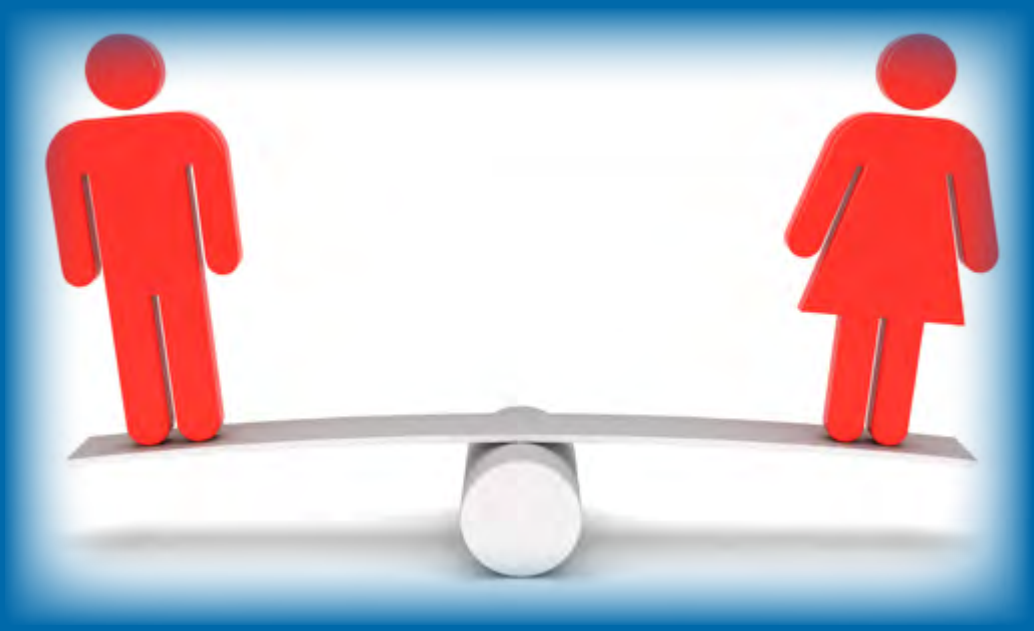
Examples of how certain cases would be regarded under this law can be found here:

www.legislation.gov.uk/ukpga/2010/15/notes/contents

Previously there was a Disability Discrimination Act. The Equality Act has replaced most of the points in that. For further details:

www.dwp.gov.uk/employer/disability-discrimination-act/

www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068



The Health and Safety at Work Act (1974)

All businesses, no matter how small, have a legal responsibility to reduce the risk of workplace dangers and provide safe and healthy conditions for employees, customers, suppliers and anyone else who could be affected by the activities of the business.

A business can benefit from good health and safety at work as it can help to avoid staff illness, accidents and the costs associated with these incidents. They can also improve the reputation of the business with customers, employees and the general public.

The Health and Safety at Work Act (1974), also referred to as HASAW or HSW, is the main legislation covering occupational health and safety in the United Kingdom.

The Health and Safety Executive is responsible for enforcing the Act and a number of other Acts and regulations about safe working. Full details can be found here: www.hse.gov.uk

Employers' health and safety responsibilities:

- appoint someone competent to help meet health and safety duties
- write a health and safety policy for the business
- use a risk assessment to identify workplace hazards – and put measures in place to control and minimise the hazards and risks
- provide training and information about how to work safely and without risks to health
- consult employees or their representatives about any changes that might affect their health and safety and the quality of health and safety information and training
- provide the right workplace facilities – every workplace must meet some basic standards of comfort and sanitation such as toilets and washing facilities
- report and keep a record of certain injuries, incidents and cases of work-related disease
- display the health and safety law poster – or provide each worker with a copy of the equivalent pocket card

Employee responsibilities:

Employees have a joint responsibility with the employer to ensure that health and safety is the number one priority in the workplace and to act in a safe and responsible manner. Employees, and the business, may be prosecuted for failing to comply with Health and Safety requirements. Therefore employees should:

- follow the training they have received when using any work items provided by the employer
- take reasonable care of their own and other people's health and safety
- co-operate with the employer on health and safety
- tell someone – the employer, supervisor or health and safety representative – if it is thought the work or inadequate precautions are putting anyone's health and safety at serious risk.

Further advice for businesses:

www.businesslink.gov.uk/bdotg/action/layer

The Data Protection Act (1998)

This Act applies to personal information about an individual.

It is aimed at protecting the rights of the individual to privacy. The Act is quite complex but there are basically eight common sense rules – known as the 'data protection principles'. They are:

- personal data should be processed fairly and lawfully
- personal data should be held only for registered purpose/s and not be disclosed in anyway other than lawfully and within the registered purpose
- personal data held should be adequate and relevant and not excessive for the required purpose
- personal data should be accurate and kept up-to-date
- personal data should not be kept for longer than is necessary
- data must be processed in accordance with the rights of the data subjects
- appropriate security measures must be taken against unauthorised access
- personal data cannot be transferred to countries outside the European Union unless the country provides an adequate level of protection.

The Act also gives important rights to the person about whom data is held. This includes the right to know what information is held, including information held by an employer, and the right to correct information that is wrong. Compensation can be claimed through the courts if an organisation breaches this Act and causes damage, such as financial loss. If it has, it is also possible to claim for distress caused as a result of the incident.

If an organisation holds data on individuals, it must register under the Act. Employees must also adhere to the Data Protection Act and the employer will have rules about this for you to follow. The employer will be prosecuted if they break this law and if an employee is found to be negligent, he/she may be liable for prosecution too.

This link explains the principles of this Act and gives practical examples of how the principles apply in practice:

www.ico.gov.uk/for_organisations/data_protection/the_guide.aspx

Further details:

www.direct.gov.uk/en/governmentcitizensandrights/yourrightsandresponsibilities/dg_10031451

The Freedon of Information Act (2000)

The Freedom of Information Act gives a person the right to ask any public body – such as local authorities and councils, hospitals and doctors' surgeries, schools colleges and universities, the police - for all the information they have on a particular subject.

Everyone can make a request for information – there are no restrictions on age, nationality, or area lived in.

Unless there's a good reason, the organisation must provide the information within 20 working days. You can also ask for all the personal information they hold on you. Some information might be withheld to protect various interests which are allowed for by the Act. If this is case, the public authority must say why they have withheld information.

There is often no fee attached to making a request under the Freedom of Information Act unless it is in excess of a certain cost limit. Administration charges, for photocopying and postage for example, may be levied at the discretion of the organisation.

If a person asks for information on themselves, the request will be handled under the Data Protection Act.

Further information:

www.direct.gov.uk/en/governmentcitizensandrights/yourrightsandresponsibilities/dg_4003239

www.ico.gov.uk/for_organisations/freedom_of_information.aspx

The Children Act (2004)

"The primary purpose of the Act is summarised as follows: to create clear accountability for children's services, to enable better joint working and to secure a better focus on safeguarding children. An alternative 'sound bite' in relation to the underlying intention is 'to maximise opportunities and minimise risks for all children'."

Source: www.4bc.co.uk/articles/article/children-act-2004-by-isabelle-watson/

Background

The Children Act was designed to respond to Lord Laming's findings that health officials, police and social services missed twelve opportunities to save the life of Victoria Climbié – due to a lack of information sharing. As there was a lack of joined up reporting, individual professionals were unable to gain a full picture of what was going on in a child's life.

BBC news article on the timeline of Victoria Climbié's death

http://news.bbc.co.uk/1/hi/uk/2062590.stm

The main provisions of the Act

It enables the government to create an electronic profile of every child in England, Scotland and Wales to make it easier to trace children across local authorities and government services.

It places a 'duty to co-operate' on all services who work to protect children. Services include local authorities, the police, the probation board, the youth offending team, the Strategic Health Authority and Primary Care Trusts, Connexions partnerships, and the Young People's Learning Agency. This is designed to eliminate the risk of children 'falling through the gaps' due to lack of information sharing. So, any agency that is aware of the maltreatment of a child – or the misconduct of a child's legal guardian – should make their findings known to other agencies.

The Act also made provision for a Children's Fund, which is designed to mitigate the poverty and financial hardship of underprivileged children or children whose family's financial circumstances leave them disadvantaged. The idea of the Children's Fund is to ensure that children between the ages of five and thirteen attend school regularly, to help to reduce the risk of children between these ages committing crimes and to try to ensure these children have the best start in life.

Full information on this Act is available at:

www.legislation.gov.uk/ukpga/2004/31/contents

This source also explains the Act in a very readable way:

www.workingwithkids.co.uk/childrens-act.html

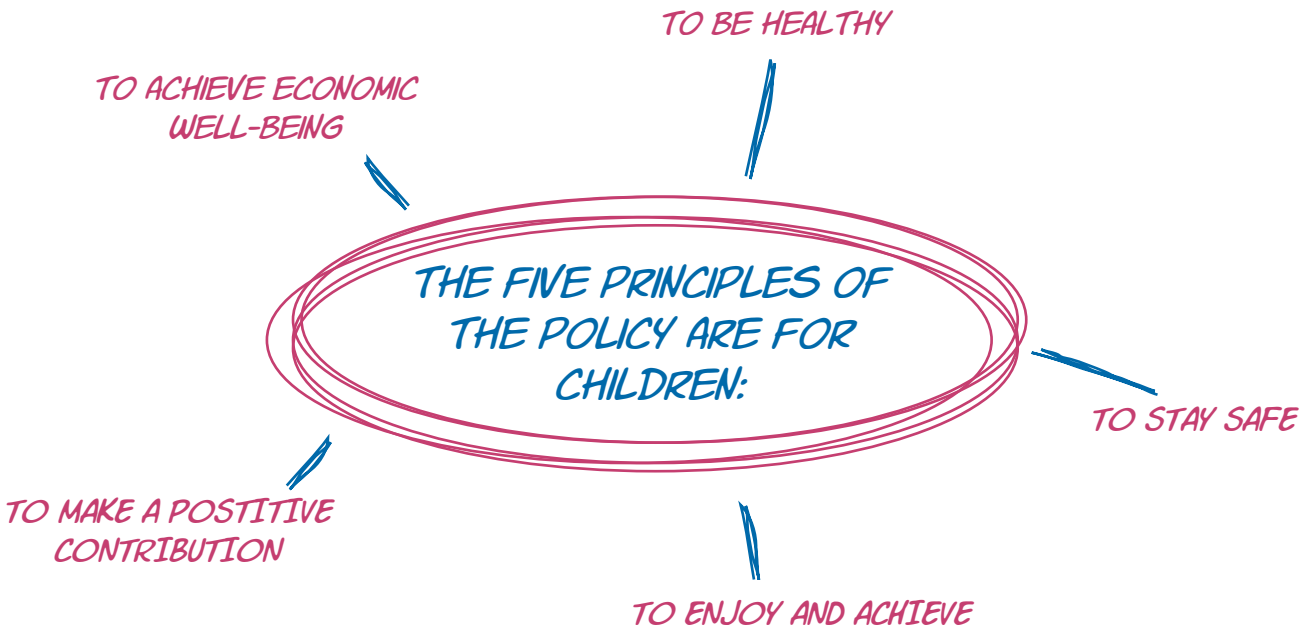
Working with children in any capacity you must know about, and follow, the principles of The Every Child Matters policy

The Every Child Matters policy

This was an outcome of the Children Act. It applies to children and young people from birth to the age of 19 and is based on the idea that every child should have plenty of support throughout their life – regardless of their individual circumstances or background.

Everyone who works with children in any capacity - teachers, social workers, social services, foster carers, hospitals, children's homes, the police and voluntary groups or charities who work with children – should remember and put into action the principles of the policy.

Legislation



Can you give example of ways in which you have encountered the five principles above? Think about your school/college, extra-curricular activities, work experience and any voluntary work you have been involved in.

Part of the way the policy works is to get all the different groups of people who work with children to share information about how they can best promote the needs of children and help them gain the most out of life.

Full details of this and other related documents are free to download in pdf format at:

www.education.gov.uk/publications/standard/publicationDetail/Page1/DFES-1109-2004

Another useful source can be found at:

www.workingwithkids.co.uk/every-child-matters-policy-explained.html

Further details can be found by entering every child matters into a search engine.

The Mental Health Act (2007)

This Act (which amends one created in 1983) says how a person with a mental disorder can be treated – and what his/her rights are.

What is a 'mental disorder'?

Words used in the law to describe someone who has:

- ***A mental illness***
- ***A learning disability***
- ***A personality disorder.***

The law says when a person can be given treatment or taken into hospital (even if they do not want it), what their rights are and how those rights are protected.

The rights of a person with a mental disorder:

The people who give care and treatment should listen to the person's views about their care and treatment.

The views of other people involved in the care and treatment of the person must also be taken into account. They may be:

- carers
- a named person (someone chosen by the person with the mental disorder to help them decide about care and treatment)
- a guardian (someone appointed by the court to make decisions if the person is unable to decide for him or herself)
- a Welfare Attorney (someone chosen by the person if he/she is too ill to make their own decisions).

Copyright legislation

This information is from the document: Copyright: Basic Facts by the Intellectual Property Office.

www.ipo.gov.uk/c-basicfacts.pdf

Just buying a book, CD, video or computer program does not give you the right to make copies (even for private use) or play or show them in public. The right to do these things generally belongs to the copyright owner, so you will need their permission to use their material.

What is protected by copyright?

Copyright protects original literary, dramatic, musical and artistic works, published editions of works, sound recordings (including CDs), films (including videos and DVDs) and broadcasts. The creator of the material has the right to control the way their work can be used. Their rights cover such things as:

- copying
- adapting
- distributing
- communicating to the public by electronic transmission
- renting or lending copies to the public
- performing in public.

So copyright is a type of 'intellectual property' and, like physical property, cannot usually be used without the owner's permission.

What about computer programs and material stored in computers?

A computer program is protected as a literary work. Converting a program into or between computer languages and codes counts as 'adapting' a work – and storing any work in a computer involves 'copying' the work. Also, running a computer program or displaying a work on a VDU will usually involve 'copying'.

Is material on the internet protected by copyright?

Copyright material sent over the internet or stored on web servers will usually be protected in the same way as material recorded on other media. So if you want to put copyright material on the internet or distribute or download copyright material that others have put on the internet, you will need to make sure that you have permission from the people who own the rights in the material.

Does copyright have to be registered?

Copyright protection in the UK is automatic, so there is no registration system; there are no forms to fill in, and no fees to pay.

Does work have to be marked to claim copyright?

In some countries you must mark work with the international © mark followed by the creator's name and the year of creation. This is not necessary in the UK, but it may help if it's necessary to take action against someone using the material without the owner's permission. Marking work in this way also gives automatic copyright protection in some foreign countries. You could also include information about whether and how far you are happy for others to use your copyright material without permission.

Permission to copy or use copyright material

The permission of the copyright owner should be sought. He/she may allow it to be used (free or for a fee) or may not give permission for it to be used.

However, you may be allowed limited copying of a work for non-commercial research and private study, criticism or review, reporting current events, judicial proceedings and teaching in schools. But if you are copying large amounts of material or making many copies, you may still need permission. Also, you will need to include in your work an acknowledgement of the name of the copyright work and its author.

Crown copyright covers material created by civil servants, ministers and government departments and agencies. "It may be reproduced free of charge in any medium or format for research, private study or internal use within an organisation. This is subject to the material being reproduced accurately and not used in a misleading context".

Source: www.scotland.gov.uk/CrownCopyright

What happens if copyright work is used without permission?

Using copyright material without permission is called 'infringement of copyright'. To save time and money the copyright owner may resolve the matter with the person who has infringed copyright but it may result in court action. Courts may issue an injunction – to the person using the material; or may make the person pay 'damages' for infringement.

Deliberate copyright infringement – especially on a large scale such as pirate or counterfeit copies of DVDs – is likely to involve the police or the local trading standards department. They will decide whether action, including possible prosecution, is justified.

Info on crown copyright:

www.direct.gov.uk/en/SiteInformation/DG_020460

The Trades Descriptions Act (1968)

This Act was put in place to protect consumers when purchasing products and services.

In general the Act states that traders must not mislead consumers. For example when a trader is describing a product or service they must be accurate in the description – where it was made, when it was made, what is was made of and who made it.

Also covered within the Trades Description Act are numerous regulations referring to the price of products. Traders must not indicate a price is lower than it actually is.

The Trade Descriptions Act 1968 used to be the most important piece of legislation aimed at protecting consumers from misleading or false description of goods. Much of the Act has now been repealed and replaced by new legislation known as the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Business Protection from Misleading Marketing Regulations 2008.

As well as a general ban on unfair, misleading and aggressive commercial practices, the CPRs outlaw 31 specific offences and relates to business-to-consumer transactions. Breach of the Regulations is a criminal offence punishable by a fine (currently up to £5,000) or imprisonment of up to two years. This gives a more comprehensive framework for dealing with sharp practices and rogue traders.

The Business Protection from Misleading Marketing Regulations covers business-to-business transactions and prohibits advertising that misleads traders.

Further information:

www.bis.gov.uk/policies/consumer-issues/buying-and-selling/consumer-protection-regulations

The Consumer Protection (Distance Selling) Regulations (2000 as amended in 2005)

Many people buy goods and services over the internet, by phone or by mail order.

These are all examples of distance selling. An increasing range of goods and services are available to consumers in these ways. Businesses that sell by distance need to comply with this Act – sometimes referred to as the DSR.

The purpose of this legislation is to:

- give consumers confidence to buy goods and services where there is no face to face contact with the seller, and;
- to ensure that all traders selling at a distance in the normal course of their business meet certain basic requirements.

Full details can be found here:

www.legislation.gov.uk/uksi/2005/689/contents/made

Further information can be found from the Office of Fair Trading:

www.oft.gov.uk/shared_oft/business_leaflets/general/oft698.pdf

The Consumer Credit Act (1974)

"The Office of Fair Trading (OFT) is a non-ministerial government department which enforces both consumer protection and competition law, acting as the UK's economic regulator. It works to make markets work well for consumers, and ensure competition between fair-dealing businesses and prohibiting unfair practices such as rogue trading, scams and cartels. Its website offers general advice on consumer rights in the UK."

Source: *www.direct.gov.uk/en/Dl1/Directories/DG_10010835*

This Act requires most businesses that lend money to consumers or offer goods or services on credit to be licensed by the Office of Fair Trading. The licence may be suspended or taken away in the event of irregularities. Trading without a licence is a criminal offence and can result in a fine and/or imprisonment. The Act also regulates in which consumer credit licensees carry on business. For example, there are rules on what may be taken as security, limits the ways in which credit organisations can advertise and gives the county courts the ability to get involved in the case of unfair credit agreements.

This Act gives protection to consumers including withdrawing from a credit agreement and early settlement of the debt.

Full details to be found here:

www.legislation.gov.uk/ukpga/1974/39/contents

The Act (1974) was amended by the Consumer Credit Act (2006).

This Act updates and amends the previous Act and establishes a fairer, more transparent and competitive credit market.

It does this by:

- strengthening consumer rights by enabling consumers to challenge unfair lending agreements and making it possible for disputes to be resolved more easily
- improving consumer credit regulation by improving the licensing system for consumer credit businesses, requiring consumers to be given minimum standards of information
- increasing the effectiveness of regulation by extending protection to all types of consumer credit.

Full details:

www.legislation.gov.uk/ukpga/2006/14/contents

www.bis.gov.uk/policies/consumer-issues/consumer-credit-and-debt/consumer-credit-regulation/consumer-credit-act-2006

Further information can be found from the Office of Fair Trading:

www.oft.gov.uk/about-the-oft/legal-powers/legal/cca/

Further information about consumer rights – and the responsibilities of businesses – can be found here:

www.direct.gov.uk/en/Governmentcitizensandrights/Consumerrights/index.htm

Local Authority Trading Standards services protect consumers and honest traders by ensuring that trade is carried out lawfully, fairly and safely:

www.bis.gov.uk/policies/consumer-issues/enforcement-of-consumer-law/trading-standards

Consumer Direct is the government-funded consumer advice service. It offers information and advice on problems with goods and services, energy and post.

www.direct.gov.uk/en/Dl1/Directories/UsefulContactsByCategory/Governmentcitizensandrightscontacts/DG_195948

www.which.co.uk/consumer-rights

http://whatconsumer.co.uk

The Companies Act (2006)

Companies Acts governing how UK limited companies operate have existed for over 150 years in various forms.

The Companies Act (2006) is the latest legislation to update and modernise company law to make it easier to set up and run a company both now and in the future and to allow companies greater flexibility in how they operate.

One intention of this Act is that the starting point for company law should be small companies - this is known as the 'Think Small First' approach – to encourage small and medium sized companies to operate in the UK. (There are additional provisions for larger companies where necessary.)

Companies can choose to make more use of electronic methods. Resolutions can be circulated by email or other electronic methods, with shareholder agreement. This will speed up the decision making process so that most small businesses will be able to make most shareholders' decisions more quickly without the need for a general meeting.

Private limited companies no longer need to have a company secretary, an authorised share capital nor hold an Annual General Meeting. Company directors' duties are clarified; directors must now be at least 16 years old and directors are no longer required to publish their residential address for all to see. A director's private address will be held as protected information at Companies House.

The Memorandum of Association is now an historic document recording the facts at the time of incorporation; the Articles will set out the principles covering the way the company conducts its business. Private companies may now, if they wish, use default model Articles of Association which are set out in clearer language.

Full details:

www.legislation.gov.uk/ukpga/2006/46/contents

For further details:

www.berr.gov.uk/files/file42262.pdf

www.bis.gov.uk/policies/business-law/company-and-partnership-law/company-law

www.companieshouse.gov.uk

Criminal Records Bureau checks

The Criminal Records Bureau (CRB) helps employers in England and Wales make safer recruitment decisions.

You may be asked to apply for a criminal record check for jobs in which you will be working with children or vulnerable adults or in healthcare. You can refuse to have a criminal record check carried out. However, there are some jobs for which a CRB check is required by law. In that instance, if you refuse the check your employer won't be able to take your job application any further.

A vulnerable adult is someone over 18 who has, or may need, help with their everyday living tasks. This includes:

- ***disabled people who have physical or sensory impairments***
- ***those with learning difficulties or who experience mental illness or emotional distress***
- ***frail older people.***

For a full list of which jobs require a CRB check use this link: *www.homeoffice.gov.uk/publications/agencies-public-bodies/CRB/about-the-crb/eligible-positions-guide?view=Standard&pubID=867191*

If you do need a criminal record check, your prospective employer will let you know and tell you what to do next. The CRB check searches your details against criminal records and other sources, including the Police National Computer. It will either confirm you don't have a criminal record or it will list any relevant convictions, cautions, reprimands and warnings. You, and your employer, will see the results of your search. Whatever the results, your employer will decide whether they can still employ you.

Further details on the CRB:

www.homeoffice.gov.uk/agencies-public-bodies/crb/

www.direct.gov.uk/en/Employment/Startinganewjob/index.htm

CRB checks must comply with the Data Protection Act. Further details can be found here:

www.homeoffice.gov.uk/agencies-public-bodies/crb/about-crb/crb-data-protection/

The Independent Safeguarding Authority (ISA) is responsible for maintaining lists of people who are barred from working with children and/or vulnerable adults. A person who is barred by the ISA will be breaking the law if they work or volunteer, or try to work or volunteer, with those groups. An organisation that knowingly employs a barred individual to work with children or vulnerable adults will also be breaking the law.

Further details on the ISA:

www.homeoffice.gov.uk/agencies-public-bodies/crb/partners-reg-bodies/isa/

www.isa.homeoffice.gov.uk/

This BBC news story gives the background to why a system of 'vetting and barring' was set up for people who apply to work with children and vulnerable adults.

http://news.bbc.co.uk/1/hi/uk/8156124.stm

The Disclosure and Barring Service (applicable from Nov 2012), as this will be relevant for learners accessing work placements.

There have been criticisms of the vetting and barring system (VBS) as it was thought to be a disproportionate response to the risk posed by a small minority of people who wished to commit harm to vulnerable people. Following a thorough review in February 2011, a number of its recommendations have been built in within the Protection of Freedoms Bill. The government has made commitments to scale vetting and barring services back to 'common sense' levels – continuing to help safeguard children and vulnerable adults but reducing the burden on employers and respecting the civil liberties of the individual.

The Criminal Records Bureau and Independent Safeguarding Authority will be merged and a single, new non-departmental public body created. This will be called the Disclosure and Barring Service (DBS) – to be operational by November 2012.

For further details:

www.homeoffice.gov.uk/crime/vetting-barring-scheme/

Other Acts and Regulations

Sale of Goods Act (1979)

This Act relates to problems consumers may face when making purchases from shops, online or by mail order. Goods supplied by traders must be 'as described', 'fit for their purpose' and of 'satisfactory quality'. If they are not safe, durable and free from faults and defects, the consumer could have the right to a refund, repair or replacement.

Supply of Goods and Services Act (1982)

This Act aims to protect consumers against bad workmanship or the poor provision of services. It covers contracts for work and materials, as well as contracts for services where there is no physical contract – for example, going to the hairdressers.

It also says that, unless a specific date is agreed for a service to be provided, it must be carried out within a reasonable time and a reasonable cost (unless the timeframe and cost have been specifically agreed).

Sale and Supply of Goods to Consumer Regulations (2002)

This Act amended the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982. It added that manufacturers' guarantees were a contract between consumers and manufacturers.

It also says that, if a product goes wrong within the first six months, the onus is on the seller to prove there's not a fault, rather than on the consumer to prove that there is one.

The Consumer Protection Act (1987)

The Sale of Goods Act provides protection against goods which are of poor quality. If a product is unsafe, the Consumer Protection Act provides information about consumers' rights.

To make a successful claim for damages or compensation as a result of using an unsafe item, the consumer doesn't have to prove that the supplier was negligent but does have to prove the defect, that damage has been caused (death, personal injury, damage to private property in excess of £275), that the damage was caused by the defect and that the producer of the product can be identified.

The consumer must have been using the product only for the purposes for which it was reasonably intended and must not have ignored any safety instructions that were given. Also if the product was marketed for expert or experienced users, a novice would have no-one to blame but themselves if damage was caused.

Unfair Terms in Consumer Contract Regulations (1999)

These regulations (UTCCRs) protect consumers against unfair standard terms in contracts they make with traders. Terms, for example the price and details of the product or service must also be expressed in plain language. The Office of Fair Trading, and certain other bodies such as the Financial Services Authority (FSA), can take legal action to prevent the use of such terms.

www.oft.gov.uk/about-the-oft/legal-powers/legal/unfair-terms

Unfair Contract Terms Act (1977)

Transactions between businesses are covered by the Unfair Contract Terms Act 1977 (UCTA). In general, businesses are assumed to be free to enter into whatever contracts they agree between themselves.

However, the UCTA places a number of restrictions on the contract terms businesses can agree to. Specifically, it lays down rules for the ways in which the businesses selling the goods or services can use exclusion clauses to limit liability in certain areas. The business selling isn't allowed to exclude liability for:

- death or injury - under any circumstances
- losses caused by negligence - unless to do so is 'reasonable'
- defective or poor quality goods - unless to do so is 'reasonable'.

The UCTA doesn't define precisely what is meant by 'reasonable', but courts will usually take into account:

- the information available to both parties when the contract was drawn up
- whether the contract was negotiated or in standard form
- whether the buyer had the bargaining power to negotiate better terms.

Finding our about other legislation

If you'd like to find out more about the Acts or other regulations covered in this guide, you might like to start your research using:

The website of the UK government – Direct Gov:

www.direct.gov.uk/en/index.htm

Business Link, which is government's online resource for businesses and which contains a range of useful information.

www.businesslink.gov.uk

Department for Business, Innovation and Skills (BIS):

www.bis.gov.uk

The service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities:

www.citizensadvice.org.uk

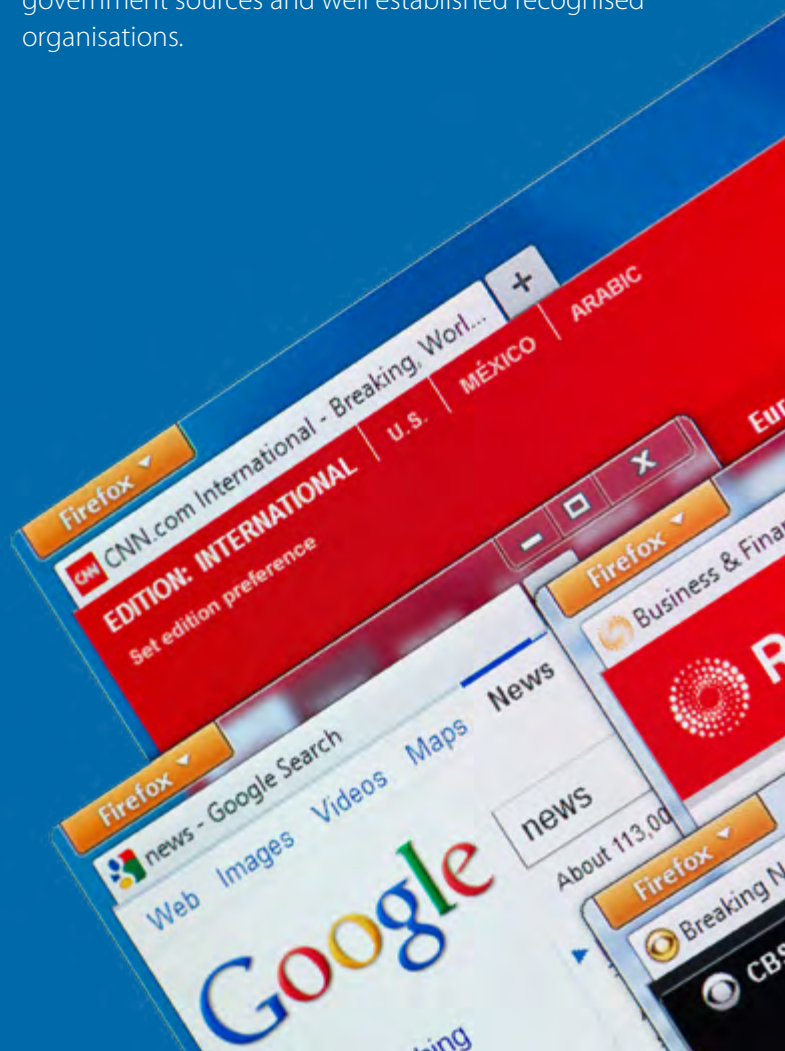
Further information on health and safety at work:

www.worksmart.org.uk/rights/health_and_safety

Further information on child protection legislation can be found here:

www.nspcc.org.uk/inform/research/questions/child_protection_legislation_in_the_uk_pdf_wdf48953.pdf

Use relevant keywords in a search engine to find further information but look carefully at the list of results. The first ones in the list may be adverts. The information on those sites may be useful – but you may have to pay for the information offered. If the site is operating commercially, the information provided may not be as unbiased and impartial as the information you may find on sites about legislation such as those from government sources and well established recognised organisations.



CONTACT US

Staff at the OCR Customer Contact Centre are available to take your call between 8am and 5.30pm, Monday to Friday.

We're always delighted to answer questions and give advice.

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