



## UNIT NGC1: MANAGEMENT OF HEALTH AND SAFETY

### TACKLING THE NEBOSH EXAM

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# FOUNDATIONS IN HEALTH AND SAFETY

## Short Questions

1. (a) **Explain** the meaning of the term 'vicarious liability' in relation to health and safety. (2 marks)  
(b) **Outline** the provisions an employer should ensure in the workplace to discharge his 'common law duty of care'. (6 marks)  
(Total: 8 marks)
2. (a) **Explain** the meaning of the word "shall" or "must" when used in health and safety regulations. (2 marks)  
(b) **Give** an example of a piece of health and safety legislation using the term "so far as is reasonably practicable". (2 marks)  
(c) **Give** an example of a piece of health and safety legislation using the term "as far as practicable". (2 marks)  
(d) **Give** an example of a piece of health and safety legislation using the term "shall" or "must". (2 marks)  
(Total: 8 marks)
3. (a) **Identify** the court structure dealing with criminal law with regard to health and safety. (3 marks)  
(b) **Identify** the court structure for civil law actions with regard to health and safety. (3 marks)  
(c) **Identify** the penalties or compensation levels. (2 marks)  
(Total: 8 marks)
4. **Outline** the concept of 'common law' in relation to health and safety. (8 marks)
5. **Outline** the defences that an employer can use against a claim for negligence. (8 marks)
6. **Outline** the powers of health and safety inspectors under Section 20 of the **Health and Safety at Work, etc. Act 1974**. (8 marks)
7. **Identify** the main steps of a health and safety management system, e.g. HSG65 *Successful Health and Safety Management*. (8 marks)

8. **State FOUR** possible direct **AND FOUR** possible indirect costs to an organisation following a serious accident at work. (8 marks)

SAMPLE MATERIAL

# FOUNDATIONS IN HEALTH AND SAFETY

## Short Questions

1. (a) An employer's responsibility for the acts of an employee in the course of employment, causing injury or loss to a third party.
- (b) An employer should:
  - Provide information, instruction and training.
  - Provide appropriate welfare facilities.
  - Ensure safe systems of work.
  - Comply with statutory duties.
2. (a) It is an absolute duty and must be complied with.
- (b) Section 2, **Health and Safety at Work, etc. Act 1974**.
- (c) Regulation 11, **Provision and Use of Work Equipment Regulations 1998**.
- (d) Regulation 3, **Management of Health and Safety at Work Regulations 1999**.
3. (a) The court structure for dealing with criminal law, with regard to health and safety is as follows:
  - The Magistrates' Court.
  - The Crown Court.
  - The Court of Appeal.
  - The Supreme Court (formerly a role undertaken by the appellate committee of the House of Lords).
- (b) The court structure for civil law actions, with regard to health and safety, is as follows:
  - The Small Claims Court.
  - The County Court.
  - The High Court.

(c) Penalties in the Magistrates' Court are:

- A £20,000 fine for breach of Sections 2 to 6 of the **Health and Safety at Work, etc. Act 1974**.
- A £5,000 fine for breach of regulations.
- A six-month custodial sentence.

Penalties in the Crown Court are:

- An unlimited fine.
- A two-year custodial sentence.

The compensation levels are:

- Small Claims Court – less than £5,000.
- County Court – less than £50,000.
- High Court – greater than £50,000.

4. The main points to include are:

- Common law is based on judicial decisions.
- It is accepted by society as a basic standard of acceptable behaviour.
- It ensures consistent judgments.
- Judgments are recorded in law reports for reference in other cases.
- Common law allows previous judgments to be revised and kept up-to-date.

5. The defences that an employer can use against a claim for negligence are:

- There was no breach of duty.
- There was no duty owed.
- Breach was by a third party.
- The breach did not lead to the loss.
- The loss was not foreseeable.
- *Volenti non fit injuria*.

- Necessity.
6. Health and safety inspectors have the power to:
- Enter the premises at any reasonable time.
  - Take a police officer with them.
  - Investigate and examine.
  - Take photographs, measurements and samples.
  - Direct the premises to be left undisturbed.
  - Dismantle equipment.
  - Take statements.
  - Inspect documents.
  - Seize and render harmless.
7. The main steps are:
- Set the policy.
  - Organise the staff.
  - Plan and implement.
  - Monitor and review.
  - Audit.
8. Direct costs following an accident include:
- Lost production.
  - Staff absence.
  - Repair of damaged plant and equipment.
  - Damage to products.
  - An increase in insurance premiums.
  - Fines.
  - An increase in uninsured costs arising from legal action (criminal or civil) including legal costs.

(Only four are required.)

Indirect costs might include:

- Time taken to investigate the accident.
- The preparation of necessary reports.
- Temporary replacement or re-training of staff.
- Possible loss of goodwill or business image.
- The detrimental effect on employee morale that may result in reduced efficiency.

(Only four are required.)

SAMPLE MATERIAL