

Risk Assessment Evaluation and Control

Lecture Title: Health & Safety Legislation and Regulations

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**Undergraduate Diploma in
Occupational Health and Safety**

Lecture Aim

Main themes covered:

- Legislative perspective:
 - EU Directive
 - Local Legislation
- General vs specific obligations
- Way forward – other legislative tools



Council Directive 89/391/EEC

- Framework Directive on Safety & Health of Workers at Work
- Adopted: 12 June 1989
- Adopted under Article 118a of the EEC Treaty
- Establishes minimum requirements for workplace health & safety
- Serves as a framework for specific future directives



Council Directive 89/391/EEC

- Scope
 - Applies to all sectors: public and private
 - Exceptions: armed forces, police, civil protection (where conflicts arise)
- Key Principles
 - Prevention of occupational risks
 - Protection of safety & health
 - Elimination of hazards
 - Worker information, consultation & training



Council Directive 89/391/EEC

- Employers' Obligations
 - Ensure workers' safety & health in all aspects of work
 - Conduct risk assessments & implement preventive measures
 - Provide training & information
 - Emergency measures: first aid, fire safety, evacuation
 - No financial cost to workers



Council Directive 89/391/EEC

- Workers' Rights & Duties
 - Right to information & training
 - Right to stop work in serious/imminent danger
 - Duty to use equipment safely & follow procedures
 - Duty to report risks



Council Directive 89/391/EEC

- Consultation & Participation
 - Workers' representatives involved in safety matters
 - Balanced participation in decision-making
 - No disadvantage for safety representatives



Council Directive 89/391/EEC

- Annex – Areas for Individual Directives
 - Workplaces
 - Work equipment
 - Personal protective equipment (PPE)
 - Visual display units
 - Manual handling of loads
 - Temporary/mobile work sites
 - Agriculture & fisheries



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Cap. 646 & Subsidiary Legislation

- **Health and Safety at Work Act (Cap. 646)**
ACT XXXIII of 2024
Promotes and safeguards health & safety of workers
- **Scope & Applicability**
 - Applies to all workplaces, sectors & activities (public & private)
 - Covers employees, self-employed, contractors, and volunteers
 - Exclusions: military operations, civil protection, emergencies — but protection ensured where possible



Cap. 646 & Subsidiary Legislation

- **Authority (OHS Authority)**
- Established as a corporate body with Board & Executive
- Functions:
 - Promote & safeguard health & safety
 - Monitor compliance & enforce regulations
 - Issue administrative instruments (guidelines, codes, directives)
 - Investigate accidents & collect data



Cap. 646 & Subsidiary Legislation

- **Aim**

- Strengthens workplace safety in Malta
- Modernized framework in line with EU standards
- Shared responsibility: employers, workers, and the Authority

- **Board & Executive**

- **Board:** 9 members (government, workers & employers)
- Oversees Executive's work, budgets, policies
- **Executive:** headed by Chief Executive, implements Act & policies



Cap. 646 & Subsidiary Legislation

- **Employers' Duties**
- Ensure **physical & psychological well-being** of workers
- Apply general prevention principles:
 - Avoid risks, assess hazards, adapt work to worker
 - Prioritize collective over individual protection
 - Replace dangerous with safer methods
- Provide information, training & supervision
- No financial cost to workers



Cap. 646 & Subsidiary Legislation

- **WHSR – Consultation of workers**
 - Duty of employer to ensure that there is elected, chosen or otherwise designated a person (or persons) to act as the Workers' Health and Safety Representative, and who shall be consulted in advance and in good time on matters which affect OHS.



Cap. 646 & Subsidiary Legislation

- **HSRO (Health & Safety Reporting Officer)**
 - Appointed where required by law or by Authority
 - Investigates breaches, reports to employer & Authority
 - Ensures corrective actions are taken
 - Independent in their function



Cap. 646 & Subsidiary Legislation

- **Workers' Duties**

- Care for own safety & others' safety
- Proper use of equipment & protective gear
- Follow instructions & report dangers immediately
- Cooperate with employer & safety representatives

- **Self-Employed**

- Same duties as employers regarding risk assessment & prevention



Cap. 646 & Subsidiary Legislation

- **Enforcement & Officers**
- Health & Safety Officers can:
 - Inspect workplaces anytime
 - Order closure/sealing of unsafe workplaces
 - Demand certificates, documents, tests
- Powers of investigation, evidence collection, and enforcement
- **Self-Employed**
 - Same duties as employers regarding risk assessment & prevention



Cap. 646 & Subsidiary Legislation

- **Tribunal**

- Independent body for appeals & disputes
- Hears cases on administrative penalties & offences

- **Offences & Penalties**

- Administrative penalties up to **€20,000 per breach**
- Criminal offences: fines up to **€50,000** and/or **imprisonment up to 4 years**
- Compromise procedure: fines up to €50,000 instead of trial

Class Discussion

- **Health and Safety at Work (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**
 - **Legal Notice 52 of 2025**





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