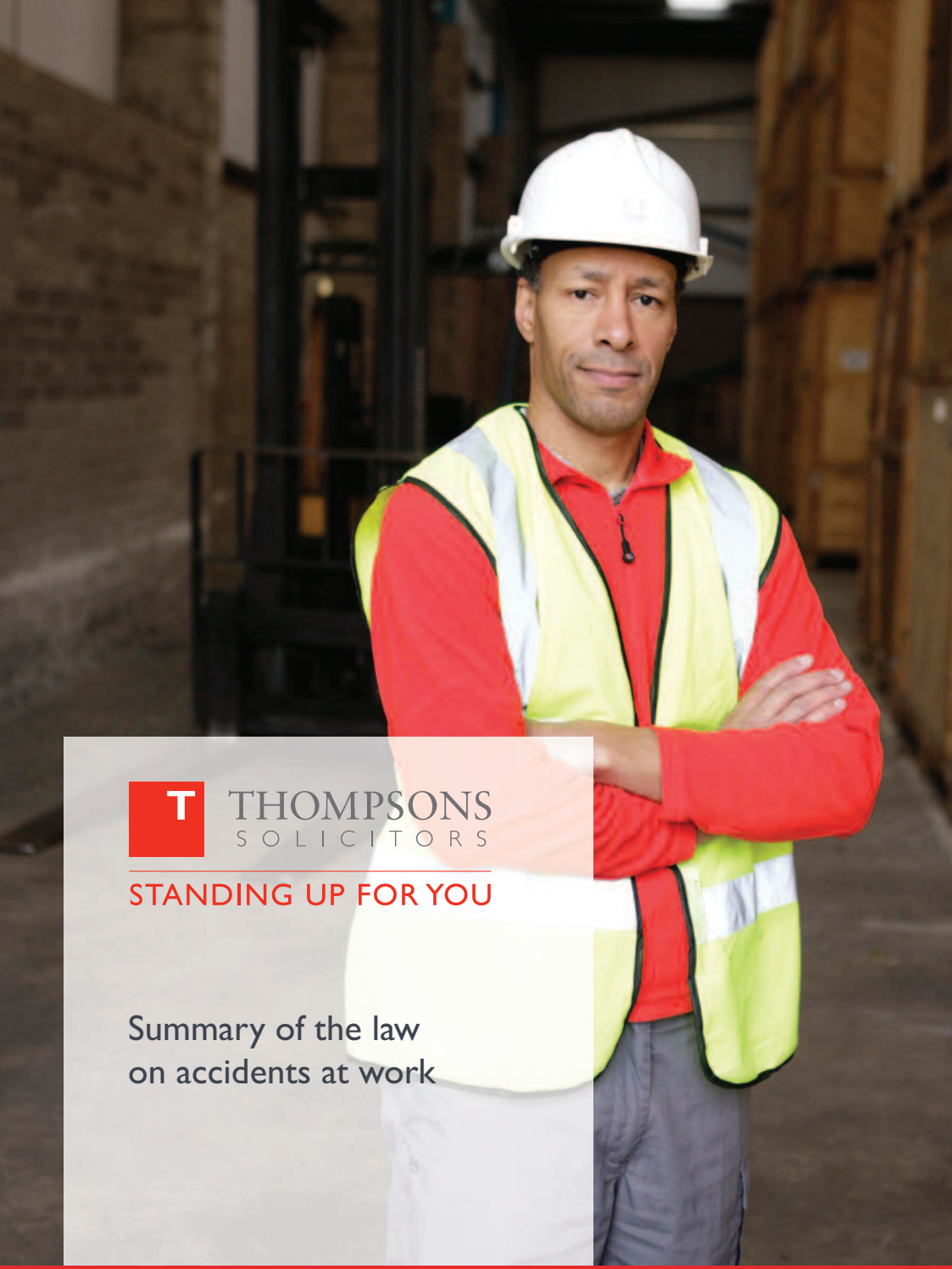


THOMPSONS
SOLICITORS

STANDING UP FOR YOU

Summary of the law on accidents at work

Our pledge to you

Thompsons Solicitors has been standing up for the injured and mistreated since Harry Thompson founded the firm in 1921. We have fought for millions of people, won countless landmark cases and secured key legal reforms.

We have more experience of winning personal injury and employment claims than any other firm – and we use that experience solely for the injured and mistreated.

Thompsons will stand up for you by:

Staying true to our principles – regardless of how difficult our job is made by government, employers or the insurance industry

Remaining committed to the trade union movement, working closely with them and with professional associations for the benefit of working people everywhere

Thompsons pledge that we will:

Work solely for the injured or mistreated

Refuse to represent insurance companies and employers

Invest our specialist expertise in each and every case

Fight for the maximum compensation in the shortest possible time

Standing up for you

Contents

The Spirit of Brotherhood
by Bernard Meadows

About this booklet

The law says that employers are responsible for the safety of their workers while they are at work. Workers have an obligation to look after themselves as well, but employers must comply with a number of specific, legal requirements.

This booklet explains the basic rights to which workers are entitled within the workplace.

- The law
- Time limits
- Proving accident claims
- Proving disease cases
- Compensation

Introduction

The law relating to health and safety in the workplace underwent a significant change in October 2013.

Previously, workers were protected both by the common law (the law as it has developed over hundreds of years), and by statute. The first case to establish that an employer held a duty of care to their workers was decided in 1837, followed by various statutes aimed at improving health and safety in the workplace.

Statutory protection for workers culminated in the late 1980s with the issuing of a number of European Directives. By way of response, the UK government introduced a number of regulations in the early 1990s (for example the Workplace Regulations and Work Equipment Regulations), governing health and safety at work. These laws meant that employees could bring compensation claims against employers if they were in breach of the regulations.

However, due to the changes which came into force in October 2013, employees can now only rely on breaches of the regulations when bringing a compensation claim in a number of very limited circumstances.

In order for a workplace claim for compensation to be successful, an injured employee now has to prove that their employer was at fault (negligent) and that they were injured as a result of this negligence. When considering whether an employer has been negligent, the employee has to show that it was reasonably foreseeable that they would suffer an injury as a consequence of their employer's negligence.

It is still possible to refer to breaches of the relevant health and safety regulations when claiming negligence, but they will no longer give rise to civil liability.

When should workers make their claim?

As soon as possible. When a worker is involved in an industrial accident it is best to report it to a manager, put details into the work accident book and submit a claim as soon as possible.

If a worker delays, there may be problems gathering the necessary evidence later. Witnesses may also have problems recalling precisely what happened and documents can get lost.

The law states that injured people should start court proceedings within three years of the date of an accident or the date they first suspected or were told by a doctor that their symptoms or disease were work-related.

The courts have a general discretion to extend the three year time limit, but it is always better to start legal proceedings within the limit.

Who is to blame?

Workers can only claim compensation from their employer if they can show that it was more likely than not that their employer was to blame for the accident and that the accident caused their injuries.

This is called the "balance of probabilities" test.

Workers can prove that their employer was to blame by showing that they were in breach of a common law duty (negligent).

For example, the employer failed to provide a safe place of work, a safe system of work and safe equipment and machinery.

Workers also have to prove that their injuries or disease were caused or made materially worse by their work. Medical experts provide guidance on these issues.

Employers may also be liable if an employee is injured as a consequence of the negligence of a fellow worker. This is known as vicarious liability.

If the injury occurs away from the employer's premises (for example a delivery driver is injured while delivering packages), the employee may be able to claim against both the employer and the person responsible for those premises.

What do workers have to prove in accident claims?

To be awarded compensation for an accident, workers have to prove that:

- Their employer owed them a duty of care.
- The employer breached that duty of care.
- The breach of that duty resulted in their injury.

The first stage is straightforward as it is well established in law that employers owe their workers a duty to take reasonable care.

The court then asks whether the employer did everything that was reasonable in the circumstances to keep their worker safe. This includes looking at how they dealt with any risks they could reasonably foresee.

This does not mean that employers are legally obliged to remove every risk.

The law states that employers should deal with any risks which are likely to arise which could potentially cause injuries reasonably classified as more than a very minor injury.

What do workers have to prove in disease cases?

In order to be awarded compensation in a disease case, workers have to prove:

- That they are suffering from a disease.
- That their employer failed to take adequate steps to prevent or reduce the risk of them suffering from the disease.
- That their employer knew or should have known that the work undertaken or substance exposed to whilst at work was capable of causing injury to their worker.
- That their disease was caused, or was materially contributed to, by their work or substances they were exposed to at work.

What compensation is available?

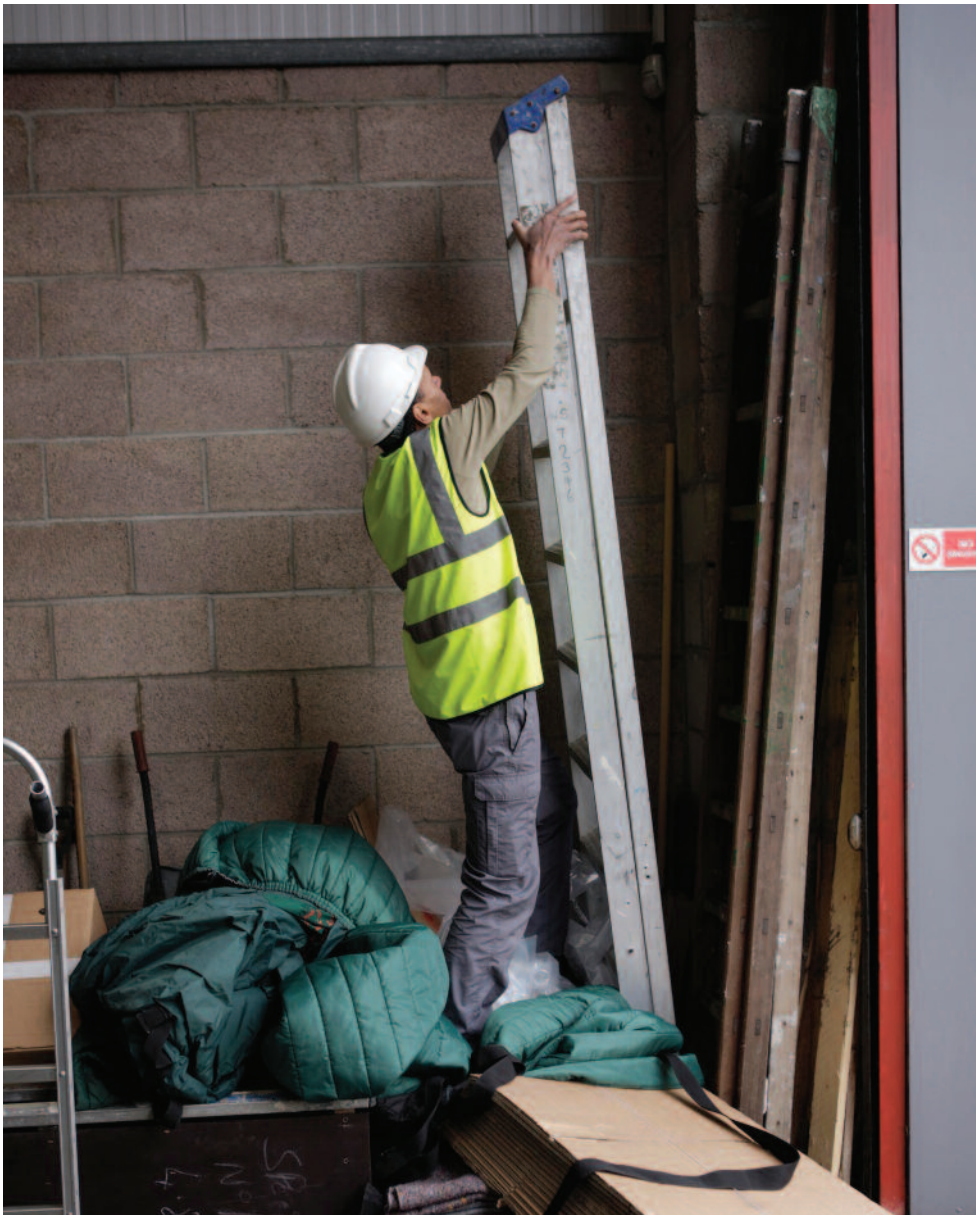
There are different types of compensation available for work-related injuries and diseases. These include general damages, special damages and damages to compensate if a worker can no longer do their job. This category of damages is generally called 'loss of congenial enjoyment'.

General damages are paid for an injury and reflect the pain and suffering experienced and the fact that the worker may no longer be able, for example, to participate in hobbies or other activities previously enjoyed.

Special damages are paid for financial losses incurred up to the date of a trial and into the future. These can include claims for loss of earnings for the past and future, pension loss claims, the cost of purchasing replacement clothing, shoes or other items, the costs of care and domestic help provided by family or friends, travel costs to hospital, medical expenses (including the cost of private treatment) and the cost of hiring and/or repairing a car.

Courts can reduce the amount of damages if they think the person was partly to blame for the accident or disease. The amount awarded can also be reduced if the person has received certain social security benefits which have to be paid back to the Department for Work and Pensions (DWP).

If a worker is injured at work or is suffering from a "prescribed" work-related disease, they may be entitled to Industrial Injuries Disablement Benefit (IIDB). They should contact their local DWP office which will send them the relevant forms to complete. They do not have to prove that their employer was to blame to be entitled to IIDB.



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