

GUIDE TO THE SAFETY, HEALTH & WELFARE AT WORK ACT 2005

The Safety, Health and Welfare at Work Act 2005 sets out the main provisions for securing and improving the safety, health and welfare of people at work. It repeals and replaces its predecessor, the Safety, Health and Welfare at Work Act 1989.

The central thrust of the 2005 Act can be captured by the 9 General Principles of Prevention:

1. The avoidance of risks
2. The evaluation of unavoidable risks
3. The combating of risks at source
4. The adaption of work to the individual, especially with regard to the design of places of work, the choice of work equipment and the choice of systems of work equipment and the choice of systems of work, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate and to reducing the effect of this work on health
5. The adaption of the place of work to technical progress
6. The replacement of dangerous articles, substances or systems of work by safe or less dangerous substances or systems of work
7. The giving of priority to collective protective measures over individual protective measures
8. The development of an adequate prevention policy in relation to safety, health and welfare at work, which takes account of technology, organisation of work, working conditions, social factors and the influence of factors related to the working environment
9. The giving of appropriate training and instruction to employees

General Duties of Employer

Under the Act the employer's duties include:

- The management and conduct of work activities
- Preventing improper conduct or behaviour (violence, bullying or horseplay)
- The design, provision and maintenance of safe workplaces, safe means of access to and egress from the workplace and safe plant and machinery
- Preventing risks from the use of any substances or articles, or from exposure to physical agents noise, vibration and ionising or other radiations
- Providing safe systems of work
- Providing adequate welfare facilities

- Provision of adequate instruction, training and supervision regarding safety and health to employees
- Preparing risk assessments and safety statements
- Provision and maintenance of suitable personal protective equipment where risks cannot be eliminated
- The preparation and the revision of adequate plans and procedures to be followed and measures to be taken in the case of an emergency
- Ensuring that reportable accidents and dangerous occurrences are reported to the Health & Safety Authority
- To obtain the services of a competent person to assist in ensuring the safety, health and welfare of his/her employees

General Duties of Employee

Employees also have duties under the Act. Section 13 provides for a range of duties as follows:

- Comply with Health & Safety Legislation
- Protect his or her own safety, health and welfare and that of any other person who may be affected by their acts or omissions
- Not to be under the influence of any intoxicant to the extent that they could be a danger to themselves or others while at work
- Cooperate with their employer on safety, health and welfare at work
- Not engage in any improper conduct which could endanger their safety, or health or that of anyone else
- Participate in safety and health training offered by their employer
- Correctly use any article or substance and personal protective equipment provided for use at work or for their protection
- Report any defects in the place of work equipment etc which might endanger safety and health

General Duties of Other Persons

Section 16 of the Act places duties on any person who designs, manufactures, imports or supplies any article at work to ensure that:

- The article is designed and constructed so that it can be used safely and without risk to health at work
- It complies with any relevant legislation which implements a Directive of the European Union
- The article is properly tested and examined so as to meet such requirements

The person must also provide information and any updating of information about the safe use of the article to any person he/she supplies that article to.

Risk Assessment

The Act provides that every employer must identify the hazards at the place of work, assess the risks and have a written risk assessment of those risks as they apply to all employees. The basis for the management of these risks is the safety statement. In carrying out a risk assessment the following steps should be followed:

Step 1: Identify the Hazards

The first step in safeguarding health and safety is to identify hazards. It is a careful examination of what in your workplace could cause harm. A hazard is defined as something with the potential to cause harm and the risk is dependent on the likelihood of that harm occurring, the potential severity of that harm and the number of people who might be exposed.

Some typical hazards include manual handling, slips trips and falls, hazards from machinery and plant, vehicle movement, fire and explosion, noise levels, electricity, unsuitable lighting, working with VDUs, human factors such as stress, violence and bullying. This list is not exhaustive.

Step 2: Assess the Risks

Risk is the likelihood, great or small, that someone will be harmed by the hazard, together with the severity of the harm suffered. An assessment of the risk is a careful examination of what, in your work, could cause harm to people, so that it can be weighed up whether or not enough precautions have been taken or should more be done.

The risk assessment should:

- Address any significant hazards
- Apply to all aspects of work, including those who work away from the main workplace
- Cover non-routine as well as routine operations

Step 3: Control Measures

If as a result of the risk assessment hazards are identified then measures should be put in place to reduce further the possibility of harm. If something needs to be done then the following questions should be asked:

- Can I get rid of the hazard altogether?
- Can I change the way the job is done so as to make it safer?
- If not, what safety precautions are necessary to control the risk?

Some common methods of controlling the risks are:

- Extraction or containment of the hazard at source
- Ventilation
- Replacement of dangerous articles, substances or systems with safe or less dangerous articles, substances or systems of work

- Priority should be given to Collective Protective Measures over Individual Protective Measures
- Provide adequate training and supervision
- Ensuring a clean and tidy workplace
- Emergency planning including first-aid
- Adapting to technical developments
- The provision of protective equipment or clothing should only be used as a last resort after all other ways of eliminating the source has been explored
- Accident and ill health reporting and investigation
- Adequate welfare facilities

Step 4 Safety Statement

Section 20 of the Act provides that every employer must have a written Safety Statement based on the hazards identified in the risk assessment and setting out how the safety, health and welfare of employees will be secured and managed.

Safety Statements must be specific to the place of work and must set out:

- The hazards identified and the risks assessed
- The protective and preventive measures taken and the resources allocated
- The plans and procedures for dealing with emergencies or any serious or imminent risk
- The duties of employees including sub-contractors as regards health and safety
- The names and job titles of persons with responsibility for implementing and maintaining the measures
- The arrangements for the appointment of Safety Representatives and safety consultation at the place of work and the names of any Safety Representative and/or Safety Committee members

The employer is required to bring the Safety Statement to the attention of his/her employees and this must in a manner that can be understood by the employees. This should be done at least annually, on recruitment or when it has been amended.

The aims of the safety statement are:

- To involve management at the highest level by assigning clear responsibilities in the control of safety, health and welfare at the place of work
- To ensure appropriate steps are taken to comply with the relevant statutory provisions and that these provisions are reviewed on a regular basis
- To identify hazards and prioritise risks
- To ensure sufficient resources are allocated to safety management

- To ensure all in the workplace are involved and informed
- To ensure systematic follow-up of problems as they arise

Step 5 Review and Record

The Safety Statement must be reviewed, and amended if it is no longer valid or if there is reason to believe it is no longer valid, if there has been sufficient change in the matters to which it relates, or if directed by an inspector within 30 days of that direction.

It is recommended that the Safety Statement is reviewed at least once a year.

It is also important that detailed records are kept of all risk assessments carried out and any controls put in place.

Consultation and Participation

Employers must consult their employees on safety, health and welfare at work and must provide them with certain information on these matters.

The employer must consult the employees or their Safety Representatives, or both, on:

- On any proposed measure that is likely to substantially affect their safety, health or welfare at work
- The designation of employees having duties under the Act in relation to emergency, or serious and imminent danger planning and preparation
- Any matters arising from measures related to the protection from and prevention of risks
- Hazard identification and any risk assessment carried out
- The preparation of Safety Statements
- The information to be given to employees
- Information on reportable accidents and dangerous occurrences
- The appointment of competent persons
- The planning and organisation of training
- The planning and introduction of new technologies and the implications for the safety, health and welfare of employees
- Refrain from penalising any employee for acting in accordance with safety and health laws or for reporting complaints regarding safety and health matters at work