

Dictionary of Legislation

Updated to include legislation enacted up to September 1st 2008

Introductory Notes

The Health and Safety Review Dictionary of Legislation is a guide to health and safety legislation and those aspects of environmental legislation that impact on workplace safety, and health. The Dictionary, which was first published in HSR from April 1996 to November 1997, provided readers with a comprehensive source of safety, health, welfare and work related environmental legislation applicable in the Republic of Ireland.

The Directory has now been updated to include all legislation enacted up to September 1st 2008.

When the HSR web-site was launched over two years had passed since the Dictionary was completed and a number of new Acts and Statutory Instruments had in that period been adopted as national law. Accordingly we believed it was time to update the Dictionary.

With the development of new media and methods of communication, we decided that the Dictionary should be published as one complete document and be available on our website www.healthandsafetyreview.ie. The updated Dictionary complements and expands what might be termed our first edition and updates our 1993 publication, the Health and Safety Legislation Handbook. As with the Handbook and the first edition of the Dictionary, the objective is to provide a synopsis of the legislation in readable English. To assist readers who may need to refer to the original Acts or Statutory Instruments, headline notes, with the section number from the Act and the number of the Statutory Instrument from which the synopsis is derived, are given.

The Dictionary is set out under subject headings from A to Z. So for instance if a reader wants a summary of the legislation relating to smoking in the workplace, the reader should click the S icon and there he/she will find Smoking. During 2006 we also published a list of legislation under topic headings. This list is updated in the current edition of the Dictionary.

Because it would be unwieldy to use the full title of every Act or Statutory Instrument each time it is referred to abbreviations are used. The abbreviations for Acts of the Oireachtas are listed below and the abbreviations for Statutory Instruments (SIs) – which are by reference to the SI number - are listed after each letter or group of letters under which legislation is summarised, with only those that are relevant being listed under the particular letter heading.

The Dictionary is a guide only and not a legal interpretation of the legislation. For the definitive version of the legislation, readers must always refer to the original document and if a matter of interpretation arises, professional legal advice should be sought. Subscribers seeking more information on topics will find cross-references to selected relevant articles in Health & Safety Review. Beyond those articles there are numerous other articles and references that readers will find relevant. Those seeking further information should search the web-site and read articles either on-line or in past issues.

Subscribers may print or copy electronically the Dictionary or such parts of it as they require and copyright is waived in so far as the Dictionary is used within the subscriber's organisation or for training purposes when training is provided by subscriber's organisation, provided that it is made clear that the Dictionary is a synopsis of legislation, that reference should always be made to the actual Act or Statutory Instrument and Health & Safety Review's authorship is acknowledged.

Herbert Mulligan

Editor

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Acts of the Oireachtas

Factories Act 1955
Mines and Quarries Act 1965
Dangerous Substances Act 1972
European Communities Act 1972
Safety in Industry Act 1980
Fire Services Act 1981
Safety, Health and Welfare at Work (Offshore Installations) Act 1987
Air Pollution Act 1987
Environmental Protection Act 1992
Maternity Protection Act 1994
Adoptive Leave Act 1995
Occupiers Liability Act 1995
Protection of Young Persons (Employment) Act 1996
Organisation of Working Time Act 1997
Parental Leave Act 1998
Employment Equality Act 1998
Carriage of Dangerous Goods by Road Act 1998
Personal Injuries Assessment Board Act 2003
Licensing of Indoor Events Act 2003
Civil Liability and Courts Act 2004
Safety, Health and Welfare at Work Act 2005
Railway Safety Act 2005
Road Traffic Act 2006
Chemical Act 2008

Topics covered in the Dictionary

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Air Pollution
Air Receivers
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Asbestos
Asthma

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Buildings: mines
Buildings: workplaces
Bullying

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Changing Rooms (clothing accommodation)
Chemicals (see also REACH)
Clients: construction
Cleanliness
Cofferdams/Caissons
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Competent Persons: definition
Compressed Air
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Dangerous Occurrences: notification
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Duty to Consult

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Regulations listed by topic

Asbestos

Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 (SI 386/06)

Biological Agents (see also Chemical Agents)
European Communities (Protection of Workers) (Exposure to Chemical, Physical and Biological Agents) Regulations 1989 (SI 251/89)

Safety, Health and Welfare at Work (Biological Agents) Regulations 1994 (SI 46/94)

Safety, Health and Welfare at Work (Biological Agents) (Amendment) Regulations 1998 (SI 248/98)

Bullying/Harassment

Code of Practice Detailing Procedures for Addressing Bullying in the Workplace (LRC Code) (SI 17/02)

Code of Practice on Sexual Harassment and Harassment at Work (Equality Authority Code) (SI 72/02)

Code of Practice for Employers and Employees on the Prevention of and Resolution of Bullying at Work (HSA Code) 2007

Carcinogens

Safety, Health and Welfare at Work (Carcinogens) Regulations 2001 (SI 78/01)

Chemicals (see also REACH and Dangerous Substances and Preparations)

Regulation of the European Parliament and Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation 1907/2007

Chemicals Act 2008

Chemicals Act 2008 (Commencement) Order 2008 (SI 273/08)

Chemical Agents (see also Biological Agents)
European Communities (Protection of Workers) (Exposure to Chemical, Physical and Biological Agents) Regulations 1989 (SI 251/89)

Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001 (SI 619/01)

Code of Practice for the Safety, Health and Welfare at Work (Chemical Agents) Regulations 2007

Confined Spaces

Safety, Health and Welfare at Work (Confined Spaces) Regulations 2001 (SI 218/01)

Code of Practice for Working in Confined Spaces

Construction (see also Work at Height)
Code of Practice: Safe Use of Cranes in the Construction Industry (I.S. 360:2004)

Code of Practice for Avoiding Danger from Underground Services (2005)

Code of Practice for Safety in Roofwork (2005)

Safety, Health and Welfare at Work (Construction) Regulations 2006 (504/06)

Safety, Health and Welfare at Work (General Application) (Work at Height) Regulations 2007 (SI 299/07)

Construction Safety Code of Practice for Contractors with Three or Less Employees

Dangerous Goods: transport by road/rail
Carriage of Dangerous Goods by Road Act 1998

Railway Safety Act 2005

European Communities (Safety Advisers for the Transport of Dangerous Goods and Road and Rail) Regulations 2001 (SI 6/01)

European Communities (Transport of Dangerous Goods by Rail) Regulations 2003 (SI 701/03)

Carriage of Dangerous Goods by Road Regulations 2007 (SI 288/07)

European Communities (Carriage of Dangerous Goods by Road) (ADR Miscellaneous Provisions) Regulations 2007 (SI 289/2007)

Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Order 2007 (SI 290/07)

Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations 2007 (SI 291/07)

Dangerous Substances and Preparations
Dangerous Substances Act 1972

Classification/packaging/labelling/notification

European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations 2003 (SI 116/03)

European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004 (SI 62/04)

European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations 2006 (SI 25/06)

European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2008 (SI 271/08)

European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations 2008 (SI 272/08)

Marketing and Use

European Communities (Dangerous Substances and Preparations) (Marketing and Use) Regulations 2003 (SI 220/03)

European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2003 (SI 503/03)

European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2004 (SI 852/04)

European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2006 (SI 364/06)

Petroleum related

Dangerous Substances (Retail and Private Petroleum Stores) Regulations 1979 (SI 311/79)

Dangerous Substances (Oil Jetties) Regulations 1979 (SI 312/79)

Dangerous Substances (Petroleum Bulk Stores) Regulations 1979 (SI 313/70)

Dangerous Substances (Method and Apparatus for Testing Petroleum) Regulations 1988 (SI 128/88)

Dangerous Substances (Retail and Private Petroleum Stores) (Amendment) Regulations 1988 (SI 303/88)

Dangerous Substances (Storage of Liquefied Petroleum Gas) Regulations 1990 (SI 201/90)

Dangerous Substances (Retail and Private Petroleum Stores) (Amendment) Regulations 2004 (SI 860/04)

Electricity

Safety, Health and Welfare at Work (General Application) (Electricity) Regulations 2007 (SI 299/07)

Explosive Atmospheres

Safety, Health and Welfare at Work (General Application) (Explosives Atmospheres at Places of Work) Regulations 2007 (SI 299/07)

Factories (see also Machinery/Equipment)

Factories Act 1955 (Application of Section 76 to Certain Diseases) Regulations 1972 (SI 262/97)

Fire

Fire Services Act 1981

Building Regulations 1997 (Technical Document B) Fire Safety

Licensing of Indoor Events Act 2003

Safety, Health and Welfare at Work (General Application) (Workplace and Work Equipment) Regulations 2007 (SI 299/07)

Fishing

Merchant Shipping (Musters) (Fishing Vessels) Regulations 1993 (SI 48/93)

Safety, Health and Welfare at Work (Fishing Vessels) Regulations 1999 (SI 325/97)

Safety, Health and Welfare at Work (Fishing Vessels) Regulations 1999 (SI 325/99)

Fishing Vessels (Personal Flotation Devices) Regulations 2001 (SI 586/01)

Fishing Vessels (Basic Safety Training) Regulations 2001 (SI 587/01)

European Communities (Safety of Fishing Vessels) Regulations 2002 (SI 417/02)

Fishing Vessels (Safety Provisions) Regulations 2002 (SI 418/02)

European Communities (Safety of Fishing Vessels) (Amendment) (No 2) Regulations 2003 (SI 633/03)

Fishing Vessels (Safety Provisions) (Amendment) Regulations 2003 (SI 634/03)

Machinery/Equipment (see also Factories)

Factories (Preparation of Steam Boilers for Examination) Regulations (SI 174/56)

Factories (Cleanliness of Walls and Ceilings) Order 1956 (SI 175/56)

Chains, Ropes and Lifting Tackle (Register) Regulations 1956 (SI 178/56)

Factories (Report of Examination of Steam Boilers) Regulations (SI 183/56)

Factories (Report of Examination of Steam Receivers) Regulations (SI 184/56)	Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2001 (SI 29/01)
Factories (Report of Examination of Air Receivers) Regulations 1956 (SI 185/56)	Maternity Protection (Time Off for Ante-Natal Classes) Regulations 2004 (SI 353/04)
Factories (Report of Examination of Steam Receivers) (Amendment) Regulations (SI 358/78)	Maternity Protection (Protection of Mothers who are Breastfeeding) Regulations 2004 (SI 354/04)
European Communities (Wire-Ropes, Chains and Hooks) Regulations 1979 (SI 270/79)	Maternity Protection (Postponement of Leave) Regulations 2004 (SI 655/04)
Factories (Report of Examination of Steam Boilers) (Amendment) Regulations (SI 359/79)	Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 2004 (SI 667/04)
Safety in Industry (Vehicle Lifting Tables and Other Lifting Machines) (Register of Examinations) Regulations 1981 (SI 426/81)	Maternity Protection (Extension of Periods of Leave) Order 2006 (SI 51/06)
Safety in Industry (Abrasive Wheels) Regulations 1996 (SI 30/82)	Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 2006 (SI 52/06)
European Communities (Simple Pressure Vessel) Regulations 1996 (SI 33/96)	Safety, Health and Welfare at Work (General Application) (Part 6, Chapter 2, Pregnant Employees etc) Regulations 2007 (SI 299/07)
European Communities (Lifts) Regulations 1998 (SI 246/98)	<i>Mining/Quarrying</i>
European Communities (Machinery) Regulations 2001 (SI 518/01)	Mines and Quarries Act 1961
European Communities (Transportable Pressure Equipment) Regulations 2004 (SI 374/04)	* In so far as Quarries are concerned repealed by Quarries Regulations 2008
<i>Major Accident Hazards</i>	Quarries (Electricity) Regulations 1972 (SI 50/72)
European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (SI 74/06)	Mines (Electricity) Regulations 1972 (SI 51/72)
<i>Manual Handling</i>	Mines (Explosives) Regulations 1972 (SI 123/72)
Safety, Health and Welfare at Work (General Application) (Manual Handling of Loads) Regulations 2007 (SI 299/07)	Mines (Electricity) (Amendment) Regulations 1979 (SI 125/79)
<i>Maternity/Parental related</i>	Quarries (Electricity) (Amendment) Regulations 1979 (SI 126/79)
Maternity Protection Act 1994	Employment Equality Act 1977 (Employment of Females in Mines) Order 1985 (SI 176/85)
Adoptive Leave Act 1995	Employment Equality Act 1977 (Employment of Females on Underground Work in Mines) Order 1989 (SI 153/89)
Adoptive Leave Act 2005	Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997 (SI 467/97)
Parental Leave Act 1998	Safety, Health and Welfare at Work (Quarries) Regulations 2008 (SI 28/08)
Maternity Protection (Amendment) Act 2004	Safety, Health and Welfare at Work Act 2005 (Quarries) (Repeals and Revocations) (Commencement) Order 2008 (SI 29/08)
Maternity Protection (Time Off for Ante-Natal and Post-Natal Care) Regulations 1995	<i>Mobile Phones</i>
Maternity Protection (Health and Safety Leave Certification) Regulations 1995	Road Traffic Act 2006

Noise

Civil Liability (Assessment of Hearing) Act 1998

European Communities (Noise Emission by Equipment for Use Outdoors) Regulations 2001 (SI 632/01)

Environmental Noise Regulations 2006 (SI 140/06)

European Communities (Noise Emission by Equipment for Use Outdoors) (Amendment) Regulations 2006 (SI 241/06)

Safety, Health and Welfare at Work (General Application) (Control of Noise) Regulations 2007 (SI 299/07)

Occupational Injuries/Illnesses/Diseases

Social Welfare Occupational Injuries (Prescribed Diseases) Regulations 1983 (SI 392/83)

Occupiers Liability

Occupiers Liability Act 1995

Offshore

Safety, Health and Welfare at Work (Offshore Installations) Act 1987

Personal Injury Claims

Civil Liability (Assessment of Hearing) Act 1998

Personal Injuries Assessment Board Act 2003

Civil Liability and Courts Act 2004

Radiation

Radiological Protection Act 1991 (Ionising Radiation) Order 2000 (SI 44/93)

European Communities (Medical Ionising Radiation Protection) Regulations 2002 (SI 478/02)

REACH (see Chemicals)

Regulation of the European Parliament and Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation 1907/2007

Chemicals Act 2008

Chemicals Act 2008 (Commencement) Order 2008 (SI 273/08)

Road Transport

European Communities (Road Transport) (Recording Equipment) Regulations 1986 (SI 393/86)

European Communities (Road Transport) (Exemption) Regulations 1987 (SI 138/87)

European Communities (Installation and Use of Speed Limitation Devices in Motor Vehicles) Regulations 2005 (SI 831/05)

European Communities (Speed Limitation Devices) (Amendment) Regulations 2005 (SI 832/05)

European Communities (Road Transport) Regulations 2006 (SI 88/06)

European Communities (Road Transport) (Recording Equipment) Regulations (SI 89/06)

Signs

Safety, Health and Welfare at Work (General Application) (Signs) Regulations 2007 (SI 299/07)

Smoking

Public Health Tobacco (Amendment) Act 2004

Vibration

Safety, Health and Welfare at Work Act (General Application) (Control of Vibration) Regulations 2007 (SI 299/07)

Visual Display Units (Display Screen Equipment)

Safety, Health and Welfare at Work Act (General Application) (Display Screen Equipment) Regulations 2007 (SI 299/07)

Welfare

Safety, Health and Welfare at Work (General Application) Regulations 2007 (SI 299/07)

Work at Height (see also Construction)

Safety, Health and Welfare at Work (General Application) (Work at Height) Regulations 2007 (SI 299/07)

Working Time

Organisation of Working Time Act 1997

Organisation of Working Time Act (Commencement) Order 1997 (SI 392/97)

Organisation of Working Time (Exemptions of Transport Activities) Regulations 1998 (SI 20/98)

Organisation of Working Time (General Exemption) Regulations 1998 (SI 21/98)

Organisation of Working Time (Code of Practice on Compensatory Rest and Related Matters) (Declaration) Order 1998 (SI 44/98)

Organisation of Working Time (Additional Information) Order 1998 (SI 49/98)

Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998 (SI 52/98)

Organisation of Working Time (Breaks at Work for Shop Employees) Regulations 1998 (SI 57/98)

Organisation of Working Time (Records) (Prescribed Form and Exemption) Regulations 2001 (SI473/01)

European Communities (Merchant Shipping) (Organisation of Working Time) Regulations 2003 (SI 532/03)

European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004 (SI 494/04)

Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004 (SI 81/04)

Organisation of Working Time (Inclusion of Offshore Work) Regulations 2004 (SI 819/04)

European Communities (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2005 (SI 2/05)

Safety, Health and Welfare at Work (General Application) (Night Work and Shift Work) Regulations 2007 (SI 299/07)

Young Persons/Children

Protection of Young Persons (Employment) Act 1996

Factories (Certificate of Fitness for Young Persons) Regulations 1956 (SI 165/56)

Protection of Young Persons (Employment in Licensed Premises) Regulations 2001 (SI 350/01)

Protection of Young Persons (Employment) Act 1996 (Bar Apprentices) Regulations 2001(SI 351/01)

Safety, Health and Welfare at Work (General Application) (Protection of Children and Young Persons) Regulations 2007 (SI 299/07)

A-Z Summary of Legislation

A

SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993

SI 262/72 Factories Act 1955 (Application of Section 76 to Certain Diseases) Regulations 1972

SI 185/56 Factories (Report of Examination of Air Receivers) Regulations 1956

SI 357/78 Factories (Report of Examination of Steam Receivers) (Amendment) Regulations 1978

SI 392/83 Social Welfare (Occupational Injuries) (Prescribed Diseases) Regulations 1983

SI 619/01 Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001

SI 386/06 Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006

Access (see also emergency routes and exits)

SHWW Act 2005, S 8(2)(c)(ii)

Employers are obliged, in so far as is reasonably practicable, to design and provide safe means of access and egress to and from workplaces.

Accidents: Notification of and Reporting

SHWW Act 2005, S 8(2)(k)

SI 44/93, Part X, regs 58-63

MQA 65, S 98, 102

OFFIN 87, Ss 27 & 30

SI 262/72.

The reporting of accidents and dangerous occurrences provisions of the General Application Regulations 1993 was the one part of the General Application Regulations 1993, not repealed by the General Application Regulations 2007.

The HSA must be notified of accidents that cause:

- death
- or injury that prevents the worker from working for more than three consecutive days.

Where the accident causes death, the place of the accident shall not be disturbed or tampered with, until it has been seen by an inspector or three clear days have elapsed. If however it is necessary to disturb or tamper with the place to secure the health or safety of others, this shall be a defence. In respect of mines/quarries and off-shore installations the Minister for Energy must be notified also.

Accidents should be reported on Form No. IR1, obtainable from the HSA and available on the HSA website www.hsa.ie. All accidents should be recorded in the official accident record book.

Adverse or hazardous environments for electrical equipment

SI 299/07, Part 3, Reg 77

It is necessary to construct, install or protect electrical equipment which may be exposed to hazardous environments, including the effects of weather,

substances or mechanical damage so as to prevent danger arising from such exposure

Air Receivers

S42 FA 55, amended by S33 SIA 80.

SI 185/56; SI357/78

Air Receivers shall have visibly safe working pressure, be fitted with a safety valve, pressure gauge, draining appliance, means of allowing the interior to be cleaned. They shall be of sound construction and properly maintained. They shall be thoroughly cleaned and examined every 26 months by a competent person, who shall prepare a report which shall be sent to the HSA.

Asbestos

SI 386/06

The Asbestos Regulations 2006, which repealed earlier regulations, impose a duty on employers to ensure no employee is exposed to an airborne concentration of asbestos in excess of 0.1 fibres per cm³ as an eight hour time-weighted average". Where there is a likelihood that employees may be exposed employers are required to reduce exposure to a minimum and in any case below the exposure limit. Employers must limit the number of employees exposed to the lowest number possible, ensure that work processes and systems are designed so as not to produce asbestos dust or if that is impossible to avoid its release into the air, ensure that all premises are capable of being regularly and effectively cleaned and maintained, ensure that asbestos/dust-generating asbestos containing material is stored and transported in suitable sealed packaging and that waste is removed as soon as possible. Employers must also demarcate with warning signs areas where asbestos related work is taking place, ensure that protective clothing is worn, ensure that work area is only accessible by employees whose work requires entry, ensure no smoking in the area, and where exposure cannot be reasonably reduced by other means provide individual respiratory protective equipment and ensure it is worn.

Employers are, as they had previously been, required to assess the risk to employees health and safety resulting from any activity which might expose an employee to asbestos dust. Additionally employers must now take account of sporadic and low intensity. Before undertaking work, which might expose employees to asbestos dust, employers are required to carry out a risk assessment as to whether asbestos materials are present in a premises and if there is a doubt, it must be assumed asbestos is present.

When carrying out work which may expose employees to asbestos dust, employers are required to notify the HSA not less than 14 days before the commencement of the work. Before commencing demolition, removal or maintenance work employers are required to identify presumed asbestos-containing materials.

Employers are required to provide training and information and to ensure that persons carrying out

work, including asbestos demolition or removal provide evidence of their competence and ability to do so. Health assessments must be made available to employees and an occupational health register must be kept: it should be kept for a period of 40 years following the end of the exposure. (*For a more detailed summary of the provisions of the regulations, see HSR September 2006, 19*)

Asthma

SI 392/83

SI 619/01

Asthma is a prescribed disease. In regard to occupational asthma the HSA has issued guidelines which advised that regard should be had to the Chemicals Agents Regulations 2001 and the Chemical Agents Code of Practice 2007.

B

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

SI 46/94 Safety, Health and Welfare at Work (Biological Agents) Regulations 1994

SI 248/98 Safety, Health and Welfare at Work (Biological Agents) (Amendment) Regulations 1998

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

Code of Practice on the Prevention and Resolution of Bullying at Work (HSA Code) 2007

SI 17/02 Code of Practice Detailing Procedures for Addressing Bullying in the Workplace (LRC Code)

SI 72/02 Code of Practice on Sexual Harassment and Harassment at Work (Equality Authority Code)

Biological Agents

SI 146/94, SI 248/98

The Biological Agents Regulations, which give effect to the EU Biological Agents Directives require employers to carry out an assessment of the risks posed by such agents and to take measures to prevent exposure causing ill-health. Employers are required to provide information, training and health surveillance. Biological agents are listed in the schedules to the regulations and are classified as either group 2, 3 or 4 agents. The schedules indicate if the agents are likely to be toxic or allergic and when an effective vaccine is available and if it is advisable to keep a list of exposed workers for more than 10 years.

Blasting, materials for mines

S66 MQA 65

Only permitted explosives may be used in mines. They may only be used after careful preparation. Only properly qualified personnel may use them.

Buildings: Mines

Ss 82,83 MQA 65

SI 467/97, Sch 2

All buildings on the surface of a mine shall be kept in a safe condition. There shall be a safe means of access. If a person could fall more than 10 feet from the place of work, fencing shall be provided, unless there is already a secure foothold and possibly a handhold.

The Extractive Industries Regulations require that the main ventilation fan be monitored continuously and that an automatic alarm should indicate unscheduled stoppages. Traffic routes, which include stairs, ladders, loading bays and ramps should be safe, easily identifiable and lit. Changing rooms should be provided.

Buildings: Workplaces

SI 299/07, Part 2, Chapter 1, Regs 4, 8, 9, 10, 11, 19, 20, 24

A workplace is called a place of work in the regulations. It is defined as a place to house work stations on the premises and other places within the area of the undertaking to which an employee has access during his/her employment. Excluded are agricultural or forestry lands situated away from buildings, construction sites, extractive industries, fishing boats and means of transport.

Buildings should be solidly constructed, taking account of the nature of their use. Floors, walls, ceilings, and roofs of rooms be stable, not slippery, and have no dangerous bumps, holes or slopes. It should be possible to clean or refurbish surfaces to a hygienic standard. Doors and gates should be easy to open, and easy to access. Swing doors/gates should have transparent or see through panels. Doors/gates that slide or swing-up should have safety devices fitted. Windows and skylights should open and adjust easily, not when open constitute a danger and be capable of being cleaned without risk. Lighting, heating and ventilation should be appropriate to the activity undertaken. As much natural light as possible should be used but artificial light should be used where necessary.

Sanitary facilities must be suitable to the numbers working and the nature of the work. Rest rooms shall be provided but not necessarily in offices or similar workplaces that have facilities for relaxing during breaks.

Pregnant women and nursing mothers shall have facilities to rest in appropriate conditions.

Bullying

Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work (HSA Code) 2007

SI 17/02 Code of Practice Detailing Procedures for Addressing Bullying in the Workplace (LRC Code)

SI 72/02 Code of Practice on Sexual Harassment and Harassment at Work (Equality Authority Code)

Though the Codes are what is termed quasi law, rather than full statute law, the fact is that while failure to abide by the Codes, is not in itself a criminal offence and does not of itself provide a ground for taking a personal injuries against an employer for negligence, failure to abide by the Codes may be used in evidence in proceedings. For that reason, it is prudent to treat the Codes as if they were law and to implement their provisions.

Initially the Codes were adopted following the report of the Government appointed Task Force on the Prevention of Workplace Bullying. They were drafted by an implementation group set up under the auspices of the HSA, who have been given overall responsibility for tackling the issue of workplace bullying. As such, though sexual harassment and harassment remain the responsibility of the Equality Authority they may be regarded as coming within the ambit of health and safety law. Subsequently in 2007, following another report by an expert group, the HSA code of Practice was updated (*See HSR, May 2007, pg11*).

Bullying, sexual harassment and harassment are defined in the Codes, as follows:

Bullying

Workplace bullying is defined in the HSA and LRC Codes. It is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but as a once of incident is not considered bullying.

Sexual Harassment

Sexual harassment is defined in the Equality Authority Code by reference to the Employment Equality Act (section 23), which the Equality Authority have summarised by noting that sexual harassment includes any act of physical intimacy, request for sexual favours, and/or other act or conduct including spoken words, gestures or the production, display or circulation of written words, pictures or other material that is unwelcome and could be reasonably be regarded as sexually offensive, humiliating or intimidating. (Based on the Employment Equality Act 1998, section 23)

Harassment

In the Code, the Equality Authority state that harassment is similar to sexual harassment, but without the sexual element. It has to be based on the relevant characteristic of the employee whether it be the employee's marital status, family status, sexual orientation, religious belief (or none), age, disability, race, colour, nationality or ethnic or national origin or membership of the travelling community. Bullying not linked to one of the discriminatory grounds is not covered by the Employment Equality Act. (Based on the Employment Equality Act 1998, section 32 (5))

The Codes require employers to apply health and safety principles, in relation to the issues of bullying, sexual harassment and harassment. Employers must identify the hazard, assess the risk (in writing) and put in place prevention measures.

The Task Force recommended that as a demonstration of commitment to tackle the issues of bullying,

harassment and sexual harassment, organizations should adopt a Dignity at Work Charter. The HSA has published a model Charter. Every organization should obtain a copy, review it and apply it to its own workplace.

Under the terms of the Code employers should adopt a policy for the prevention of bullying, sexual harassment and harassment in the workplace. That policy should set out the prevention measures taken and procedures for dealing with allegations of such conduct. Procedures may in the first instance be informal, but formal procedures should also be adopted. The procedures should deal with issues such as investigations, time limits, representation rights, the right of the alleged perpetrator to respond, disciplinary procedures and sanctions. (*For further information see HSR, April 2002, pg9 and May 2007, pg9*)

C

Chemicals Act 2008

SI 175/56 Factories (Cleanliness of Walls and Ceilings) Order 1956

SI 178/56 Chains, Ropes and Lifting Tackle (Register) Regulations 1956

SI 207/79 European Communities (Wire-Ropes, Chains and Hooks) Regulations 1979

SI 426/81 Safety in Industry (Vehicle Lifting Tables and Other Lifting Machines) (Register of Examinations) Regulations 1981

SI 251/89 European Communities (Protection of Workers) (Exposure to Chemical, Physical and Biological Agents) Regulations 1989

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 78/01 Safety, Health and Welfare at Work (Carcinogens) Regulations 2001

SI 188/01 Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2001

SI 218/01 Safety, Health and Welfare at Work (Confined Spaces) Regulations 2001 plus Code of Practice

SI 619/01 Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001 (Plus Code of Practice 2007)

SI 53/03 Safety, Health and Welfare at Work (General Application) (Amendment No 2) Regulations 2003

SI 504/06 Safety, Health and Welfare at Work (Construction) Regulations 2006

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

SI 273/08 Chemicals Act 2008 (Commencement) Order 2008

Carcinogenic Substances

SI 78/01

New regulations, which repealed the earlier 1993 regulations, were introduced in March 2001. The new regulations significantly broadened the definition of a carcinogen (carcinogenic substances may cause cancer) to include medicinal, veterinary and cosmetic products as well as pesticides. The definition also

includes agents which have not formally been designated as carcinogens in EU legislation, where the manufacturer has information indicating that the substance is a category 1 or category 2 carcinogen. Employers must protect workers from exposure to carcinogens and also from exposure to mutagens and hardwood dust. The new regulations also set out new limit values for benzene, vinyl chloride monomer and hardwood dusts.

Employers are required to assess the risk to employee's health and safety from any activity that may expose an employee to, carcinogens, mutagens or hardwood dust. They must determine the nature, extent and duration of the exposure and set out protection measures. All routes of risk and prevention and reduction measures must be considered and in particular measures to ensure that exposure does not exceed the limit values must be taken.

Limit values for benzene are set at 1ppm, vinyl chloride monomer 3ppm and hardwood dust at 5.0 mg/m.

Employers are obliged to keep records of employees engaged in activities that may have exposed them to asbestos and records of health surveillance. Individual confidential records must be kept by a medical practitioner. Records must be kept for at least 40 years following the relevant exposure.

Employees have a right to be consulted and informed about the use of carcinogens, mutagens and foreseen and unforeseen exposures. They are entitled to training and health surveillance.

Chains, Cranes, Lifts, Hoists, Ropes

Ss 33, 34, 35 FA 55

Ss 28, 29 SIA 80

SI 178/56, Chains, Ropes and Lifting Tackle (Register) Regulations 1956

SI 207/79,

SI 426/81,

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007, Part 1, Chapter 2

The Factories Act and subsidiary regulations require that all equipment which is used for lifting purposes should be of good construction, sound materials, adequate strength, free from defect. Where appropriate there should be a gate, it should be fenced, and marked to show safe load and when persons can be carried. The general scope of these regulations is re-enacted in the General Application Regulations 2007. All such equipment is subject to periodic examination (See Schedule 1 of General Application Regulations).

Where a person using a machine cannot see a load, a person over 18 who can shall give signals. No person under 18 shall be employed to operate a mechanical

lifting machine unless adequately supervised and then only for training purposes. A register of examinations shall be kept detailing; date, machine identification, and defects.

Changing Rooms (clothing accommodation)

SI 467/97, schs 2, 3, 4, 5

SI 504/06, Part 14, Regs 98, 99, 100, 101

SI 299/07, Part 2, Chapter 1, reg 21

Such rooms shall be provided where employees have to wear special work clothes and where they cannot for reasons of health or propriety be expected to change in another room. It may be necessary to have separate lockers for work and normal clothes. Facilities for men and women to have separate changing rooms or separate use of rooms is required. Where changing rooms are not required, a place to store clothes must be provided. Contractors on construction sites must provide changing rooms if for reasons of health or propriety workers cannot change in another area. Where a changing room is not required a place for clothes and personal effects must be provided.

In mines, quarries and offshore installations sanitary installations and changing rooms shall be provided where workers can change. Provision should be made for separate shower rooms, where workers can wash in hygienic conditions. Hot and cold water should be provided. Separate facilities should be provided for men and women.

Chemicals

Chemicals Act 2008

SI 619/01

The main purpose of the Chemicals Agents Act 2008 is to confer power on the HSA to enforce the provisions of the EU REACH Regulation. Under the Act, the Authority is given a wide range of enforcement powers. The powers are similar to those granted to the Authority under the SHWW Act 2005. The Authority may serve improvement notices and prohibition notices. It is also given power to serve a new type of notice, a contravention notice, on a person who contravenes statutory provisions or fails to comply with directions to submit an improvement plan. A contravention notice may be served on a person "who has or may reasonably be presumed to have control of the activity concerned". The Authority may also apply to the High Court where a prohibition notice is contravened or where it believes an activity involving serious risk should be restricted or prohibited.

Persons or organisations, which the HSA believes have committed an offence may be prosecuted in either the Circuit Court or the District Court. A person or organisation found guilty of an offence by the Circuit Court can be fined up to €3m and/or be given a two year jail sentence. If convicted by the District Court an organisation may be fined up to €5,000 and a person may be fined and imprisoned for up to six months.

The Act includes a section similar to section 80 in the SHWW Act 2005. Section 30 provides that if an offence has been committed with the connivance, consent or is attributable to the neglect of a director or manager, that person as well as the organisation shall be guilty of the offence and may be charged with the offence.

The Act was brought into force on July 15th 2008 by the Chemicals Act (Commencement) Order 2008

The Chemicals Agents Regulations 2001 are concerned with the protection of workers from exposure to chemical agents. Employers are required by the regulations to protect workers from the risks related to chemical agents at work. The regulations set out the measures employers must take and deal with risk assessment, prevention and control measures, health surveillance, record keeping and employee's duties. The regulations apply in situations where hazardous chemical agents, including lead and carcinogens are present or likely to be present in the workplace.

Hazardous chemical agents are defined as those meeting classifications for dangerous substances in Directive 67/548/EEC and for dangerous preparations in Directive 99/45/EC and any chemical agents which may because of physico-chemical properties, chemical or toxicological properties and the way they are used or are present in the workplace present a danger to the health and safety of employees. The definition covers chemical agents assigned an occupational exposure limit value in the Code of Practice to the regulations.

When carrying out a risk assessment employers must take account of:

- the hazardous properties of chemical agents
- information available from suppliers, on material safety data sheets, and from the EU level, type and duration of exposure work circumstances and quantities stored
- occupational exposure limit values and biological limit values in the Code of Practice the effects of preventative measures, conclusions from health surveillance and activities including the maintenance and accidental release in respect of which it is foreseeable that there is potential for significant exposures.

Risk assessments should be recorded in writing and reviewed regularly or if there are reasons to suspect that the risk assessment is no longer valid, there have been changes in work practice, health surveillance results show it is necessary or exposure limits have been exceeded.

Where the risk assessment reveals a risk, employers must, in so far as is reasonably practicable, reduce the risk by:

- the design and organisation of safe system of work
- the provision of suitable equipment
- reducing to a minimum the number of employees exposed

- reducing the duration and intensity of exposure
- putting in place hygiene measures (including washing facilities)
- reducing the quantity of chemicals to a minimum
- having safe handling, storage and transport arrangements.

Employers may also require to take specific protection measures, by applying in order of priority: avoidance of the use of hazardous chemical agents or processes; design of work processes; engineering controls; use of extraction systems at source and in conjunction with these methods, if they do not work on their own, PPE.

Employers must draw up action plans to deal with emergencies/accidents/incidents. Action plans must include arrangements for regular safety drills, first-aid facilities, warning and communications systems, and the provision of protection clothing and PPE.

Employers are required to make health surveillance available when employees' exposure to a hazardous chemical is such that an identifiable disease or adverse health effect may be related to the exposure there is a reasonable likelihood of disease or effect under the particular working conditions there are valid low risk techniques for detecting indications of disease of effect.

Health surveillance is compulsory when a biological limit value is listed in the second schedule of the regulations or an approved code of practice. Employees exposed must be informed of this requirement if they are being assigned to work involving risk of exposure.

Employers are obliged to keep individual health records. Occupational healthcare professionals must, in respect of employees who receive health surveillance, keep records of health surveillance, biological and other monitoring. If the health surveillance shows that an employee has an identifiable disease or is suffering an adverse effect, the healthcare professional must inform the employee and give information and advice on the health surveillance to be undergone following exposure. Employers are required, if ceasing business, to make records available to the HSA. (*For more information see HSR January/February 2002 p14*)

Cleanliness

SI 175/56

The regulations as to the cleanliness of walls and ceilings in factories are set out in SI 175/56. Factories shall be kept clean and free from dust. Floors shall be cleaned once a week, rubbish shall be removed daily. Ceilings and walls shall be painted every 14 months if the surface is impervious and every seven years if oil painted (14 months if white or colour washed). These provisions shall not apply if mechanical power is not used or less than 10 persons are employed. Where washable paint is used an entry shall be made in the General Register.

Clients: construction

SHWW Act 2005, s17

SI 504/06, Part 2, Regs 6, 7, 8, 9, 10

Though the word client is not defined in the SHWW Act 2005, it is clear from the definition of the word in the Construction Regulations that a client is a person for whom a project is carried out in the course of business or who undertakes a project in the course of business and that section 17 of the Act applies. Under the Construction Regulations, clients are required to appoint project supervisors and to ascertain their suitability, as well as the suitability of designers and contractors. Clients are required to keep the safety file and when disposing of a property pass it on to the person acquiring the property. Clients are required to provide a copy of the safety and health plan to every person being considered or tendering for the role of PSCS and if construction work is planned to last longer than 30 working days or is schedule to exceed 500 person days clients are required to notify the HSA with details of what is known about those appointed as project supervisors.

Cofferdams/Caissons

SI 504/06, Part 6, Regs 57-60

Cofferdams/caissons shall be of good construction, strong, made from sound materials, be free from patent defects. They shall be properly maintained. In the event of flooding workers should be able to reach safety. Cofferdams/caissons shall be built under the supervision of a competent and ideally an experienced person. Materials to be used in building shall be examined. When work is being done the cofferdam/caisson shall be inspected at least once a day and examined at least once a week by a competent person. A report of the examination shall be made in the approved form.

Competent Person

SHWW Act 2005, S 2(2)(a&b), S 8(1)(l), S 18(1-5), S 18

Employers are required to appoint one or more competent persons for the purposes of ensuring health.

The term 'competent person', which was defined for the first time in the General Application (Amendment) Regulations 2003, has now, for the first time, been defined in primary legislation.

A person is deemed to be competent where, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, the person possess sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken. Account shall be taken, as appropriate of the framework of qualifications referred to in the Qualifications (Education and Training) Act 1999.

Having defined who the term 'competent person' the Act goes on to provide that employers must appoint one or more competent persons to perform safety

functions and that the persons appointed must be given adequate time and resources to do their job. They must also be given information on factors known or suspected to affect health and safety, the risks to health and safety, evacuation measures and information about fixed term and temporary employees.

When appointing competent persons, employers must give preference to persons in their employment.

However the appointment of a competent person does not relieve an employer of responsibility for employees' safety. The Act provides that the appointment of a competent person shall not operate so as to afford an employer a defence in any criminal proceedings for a safety offence caused by an act or default of an employee or a competent person.

Compressed Air

SI 504/06, Part 7, Regs 61-72, Sch 1

Compressed air means air compress above atmospheric pressure measured in kg/cm². Work in compressed air shall be planned and supervised by a competent person and undertaken subject to the appropriate precautions. Equipment provided for use in relation to work in compressed air shall be of good design, construction, be strong, made from sound materials, be free from patent defects, be properly maintained and suitable for the purpose used.

Workers in compressed air shall be medically examined, fit for the work, trained and informed of the precautions to be taken. In certain cases the doctor carrying out the medical examination must be familiar with compressed air work. A doctor, nurse or trained first-aider familiar with such work shall be available. Identification badges may be required. Working chambers, medical locks, man-locks and air supply shall have the appropriate pressure measurements and the appropriate pressure shall be maintained at all times.

Conditions and Hours: (Mines and Quarries)

SI 113 MQA 65

Workers shall not be below ground for more than eight hours in any 24 hour period. A register of descent and ascent times shall be kept.

Confined Spaces

SI 218/01

Code of Practice

The Confined Spaces Regulations define a confined space as any place, which by virtue of its enclosed nature, creates conditions which give rise to the likelihood of an accident, harm or injury due to the presence or reasonably foreseeable presence of flammable or explosive atmospheres, harmful gas, fumes, vapours, free flowing solid or an increasing level of liquid, excess oxygen or excessively high temperature or due to the lack or reasonably foreseeable lack of oxygen.

The regulations prohibit work in confined spaces, if it is reasonably practicable to carry out the work by other means. If it is not possible to carry out the work otherwise than in the confined space then the risks must be identified and evaluated, the work must be carried out in accordance with a safe system of work, workers must be adequately informed, instructed and trained, suitable rescue arrangements must be put in place and emergency arrangements must be specified. Hazards should be periodically re-evaluated. Where work is being undertaken at a shared workplace employers must co-operate with one another. The regulations also require workers to co-operate in carrying out the regulations and to make proper use of equipment.

The regulations place considerable emphasis on the emergency arrangements. These arrangements should include provision for raising alarms, provision and maintenance of rescue and resuscitation equipment, and resuscitation training. (for more information see HSR June 2001 p21)

Construction

SI 504/06

The new Construction Regulations, which came into force on November 6th 2006, repealed the Construction Regulations 2001 except for the provisions relating to lifting equipment. The remaining provisions were repealed by the General Application Regulations (Use of Work Equipment) Regulations 2007.

There are 14 parts and seven schedules to the Construction Regulations 2006, but these can broadly speaking, be summarised under two headings: general duties including management and design and technical duties. While described as general safety provisions the requirements of Part 4 of the regulations deal with technical issues.

The Construction Regulations, like the General Application Regulations, cover a wide range of issues, such as training or safety representation. These issues are dealt with under the appropriate headings throughout the Dictionary. (*For a detailed summary of the regulations see HSR, October 2006, p15 and the HSR, SHWW Construction Regulations 2006 Checklists on the HSR website, www.healthandsafetyreview.ie*)

Construction Consultation (see Consultation)

Construction Training (see Training)

Construction Safety Representation (see Safety Representatives)

Contractors

SHWW Act 2005, S17(3)

SI 504/06

Persons carrying out construction work (contractors) are required to ensure, in so far as is reasonably

practicable, that it (what is being built) is constructed to be safe and without risk to health.

The general duties of contractors are set out in Part 3 of the regulations. Contractors are bound to co-operate with the project supervisor, to provide the supervisor with information relevant to health and safety, to inform the supervisor of reportable deaths, injuries or dangerous occurrences. Where workers are working under the direct control of a contractor, the contractor must ensure that the worker holds a safety awareness registration card (effectively Safe Pass) and a construction skills registration card (CSCS) if the worker's task involves a skill covered by the CSCS.

A contractor who has 20 or more people working on a site or 30 people engaged in construction work must appoint one or more competent persons as safety officers. Contractors are obliged to co-operate with safety advisors. Contractors are under a duty to consult with employees or their safety representatives on issues affecting health and safety.

Apart from the general duties imposed on contractors by Part 3 of the regulations, apart from some specific regulations, which apply to designers, PSDP, PSCS and safety representatives, the regulations impact on contractors.

Under Part 4 of the regulations contractors have a duty to keep a site in good working order to keep it clean and have it well laid out, with clear traffic routes, clearly marked emergency routes and exits and freedom of movement at workstations. Doors and gates should be fitted with safety devices and operate safely. Often separate doors/gates are required for pedestrians. Adequate measures must be taken to prevent workers being struck by falling materials or articles. Contractors are required to take precautions against fire.

All work structures shall be constructed in a solid and stable way, so as to support the number of persons working in them and the weight they have to carry. Energy distribution installations should not present a fire or explosion hazard.

Contractors are bound to protect workers from atmospheric influences that could affect health and safety. Work temperatures should be appropriate to the working conditions. If a forced ventilation system is in use it should not expose workers to draughts. Lighting should where possible be natural. Where it is artificial it should not distort signals or signposts. Nor should it be a source of risk of accidents.

On-site indoor workstations are subject to similar rules. Emergency doors should open outwards. Sliding or revolving doors are not permitted as emergency exits. Workrooms shall be of sufficient size to permit safe and healthy working. Escalators/revelatory shall have easily identifiable and accessible safety and shut down devices.

Under Part 14 of the regulations contractors are under a duty to provide welfare facilities- changing rooms, washing facilities, sanitary conveniences (see specified under appropriate headings). (*For a more details of the impact of the regulations on contractors see HSR, October 2006, p15 and the HSR, SHWW Construction Regulations 2006 Checklists on the HSR website, www.healthandsafetyreview.ie*)

Consultation

SHWWA 2005, S 25, S 26, 27

SI 504/06, Part 2, Regs 17, 23, 28

The obligation to consult with employees or their safety representatives is a cardinal principle of modern health and safety law. The obligation is enshrined in every Directive and every regulation derived from such Directives.

Part IV of the SHWW Act 2005 deals with safety representation and consultation. The general obligation to consult is set out in s26 of the SHWW Act 2005. An employer must consult in promoting and developing health and safety measures. Account should be taken of representations made. Consultation should be in advance and in good time and concern matters, which affect workers' health and safety, planning and organisation of work, the introduction of new technologies and the employment of competent safety personnel. The Act provides legal protection against penalisation to safety representatives and employees who make complaints or representations about health and safety issues or who act in accordance with or exercise rights permitted by statutory provisions. Employees may appoint safety representatives and may, if an employer agrees, form a safety committee. (See also Joint Health and Safety Agreements and Safety Representatives below).

In addition to the requirements under the SHWW Act 2005, duty holders in construction (PSDP, PSCS and contractors) are required to provide information and consult with site safety representatives and employees.

Conveyors (Mines)

S45 MQA 65

Conveyors shall be operated by a competent person (Mines) aged 18 or over.

Custom's Powers

SHWW Act 2005, S87

When required in writing by the HSA, a customs officer may detain for 48 hours for inspection an article or substance.

D

SI 311/79 Dangerous Substances (Retail and Private Petroleum Stores) Regulations 1979

SI 312/79 Dangerous Substances (Oil Jetties) Regulations 1979

SI 313/70 Dangerous Substances (Petroleum Bulk Stores) Regulations 1979

SI 128/88 Dangerous Substances (Method and Apparatus for Testing Petroleum) Regulations 1988

SI 303/88 Dangerous Substances (Retail and Private Petroleum Stores) (Amendment) Regulations 1988

SI 201/90 Dangerous Substances (Storage of Liquefied Petroleum Gas) Regulations 1990

SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 6/01 European Communities (Safety Advisors for the Transport of Dangerous Goods and Road and Rail) Regulations 2001

SI 493/01 Carriage of Dangerous Goods by Road (Appointment of Competent Authorities) Order 2001

SI 494/01 Carriage of Dangerous Goods by Road (Fees) Regulations 2001

SI 116/03 European Communities (Classification, Packaging, Labelling and Notification) of Dangerous Substances Regulation 2003

SI 220/03 European Communities (Dangerous Substances and Preparations) (Marketing and Use) Regulations 2003

SI 503/03 European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2003

SI 701/03 European Communities (Transport of Dangerous Goods by Rail) Regulations 2003

SI 29/04 Carriage of Dangerous Goods by Road Regulations 2004

SI 62/04 European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004

SI 852/04 European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2004

SI 860/04 Dangerous Substances (Retail and Private Petroleum Stores) (Amendment) Regulations 2004

SI 24/05 Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Order 2005

SI 25/05 Carriage of Dangerous Goods by Road Act 1998 (Fees and Section 18 Payments) Regulations 2005

SI 630/06 Dangerous Substance (Retail and Private Petroleum Stores) (Amendment) Regulations 2006

SI 288/07 Carriage of Dangerous Goods by Road Regulations 2007

SI 289/07 Carriage of Dangerous Goods by Road Act 1998 (Fee) Regulations 2007

SI 290/07 Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authority) Regulations 2007

SI 291/07 Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations 2007

SI 271/08 European Communities (Classification, Packaging and Labelling of Dangerous Preparations) (Amendment) Regulations 2008

SI 2721/08 European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations 2008

Danger: withdrawal-mines

S75 MQA 65

A place shall be deemed to be dangerous if the amount of inflammable gas in the body of the air is not less by volume than the following percentage:

- in an area where lamps are permitted 2.5%,
- in other places 1.25%.

If such circumstances arise or other danger presents itself workers shall be withdrawn.

Dangerous Goods: carriage by road/rail

CDGR Act 1999

SI 291/04, SI 701/03, SI 24/05, SI 25/05, SI 288/07

The law relating to the carriage of dangerous goods by road is set out in the Carriage of Dangerous Goods by Road Act 1999 and the Carriage of Dangerous Goods by Road Regulations 2007. The Act should be read in conjunction with Carriage of Dangerous Goods by Road Regulations and various regulations governing the transporting of scheduled substances by road and with reference to the Dangerous Goods Safety Advisors Regulations (see below). The Act gives force to EU Directives, which themselves implement the international ADR and RID agreements.

The Act itself is short, but that in a way conceals its scope. The Act makes reference to two annexes (A and B) to the ADR Directive, which list over 700 pages of what are classified as dangerous goods. There is also a supplemental 200 page list. The 900 pages are grouped under class headings, which are:

Class 1: explosive substances and articles

Class 2: gases – compressed, liquefied or dissolved under pressure

Class 3: flammable liquids

Class 4.1: flammable solids

Class 4.2: substances liable to spontaneous combustion

Class 4.3: substances which, in contact with water, emit flammable gases

Class 5.1: oxidising substances

Class 5.2: organic peroxides

Class 6.1: toxic substances

Class 6.2: infectious substances

Class 7: radioactive material

Class 8: corrosive substances

Class 9: miscellaneous dangerous substances and articles.

Under the Act the Minister has wide powers to introduce regulations governing the carriage of goods, driver training, examinations, labelling and the notification of accidents and dangerous occurrences.

The Carriage of Dangerous Goods by Road Regulations deal with ADR compliance, the duties of the various participants in the carriage of dangerous goods by road (consignors, carriers, consignees, loaders, fillers, tank operators, and drivers) driver training, vehicle technical inspections and road tests.

The Carriage of Dangerous Goods by Rail Regulations 2003 set out the duties of participants and deal with the suitability of containers and tanks, the role of

inspection bodies. The regulations also deal with examinations.

During 2005 the HSA was appointed as one of the competent bodies to perform functions under the Carriage of Dangerous Goods by Road Act. This appointment was reaffirmed by the 2007 regulations.

Dangerous Goods: safety advisor

SI 288/07

The advent of the Dangerous Goods Safety Adviser (DGSA) marked the development of a new safety specialism. Organisations, called using the European terminology undertakings, who carry dangerous goods by road or rail are required to appoint a DGSA. The DGSA is required to advise the undertaking on health, safety and environmental issues relating to the transport of dangerous goods. He must also advise the company on preparing accident reports arising from the carriage of dangerous goods and on preparing an annual performance report.

DGSA's must hold a vocational training certificate, appropriate to the modes of transport used by the undertaking and to the type of goods transported. To obtain a vocational training certificate an aspiring DGSA must follow a course of training approved by a competent authority (in Ireland the HAS for road transport and the Minister for Public Enterprise in relation to rail transport) and pass an examination approved by the competent authority. Certificates issued in one EU member state must be recognised in others. Certificates are valid for five years.

Among the specific duties of a DGSA, in addition to the advisory/report role are to monitor practices and procedures: for compliance; when purchasing transport; checking equipment; training and maintenance of training records; emergency procedures in event of an accident; accident investigation; measures to prevent recurrence; measures to increase risk awareness; and verification procedures to ensure on the means of transport required documents and equipment and compliance with legislation governing loading and unloading.

Under the regulations inspectors (HSA and others who are specifically appointed) are empowered to check transport and transport equipment, enter premises, take samples, require production of reports and other documents and if they consider the transport of dangerous goods by the undertaking may pose a serious risk to persons to serve a prohibition notice.

Dangerous Occurrences

SHWW Act 2005, S 2(1)

SI 44/93, Part X, Reg 58(1) and Sch.12.

The term dangerous occurrence was defined in the General Application Regulations 1993. The term has now been redefined in the SHWW Act 2005. It is defined as meaning an occurrence arising from the collapse, overturning, failure, explosion, bursting electrical short circuit discharge or malfunction of any

work equipment, the collapse or partial collapse of any building or structure under construction or used as a place of work, the uncontrolled or accidental release the escape or ignition of any substance, a fire involving any substance or any unintentional ignition or explosion of explosives.

However the definition in the General Application Regulations 1993, which listed 14 different types of happenings, which were classified as dangerous occurrences, was somewhat broader than the new statutory definition. This definition still remains in force, as Part X and the Twelfth Schedule of the 1993 regulations were not repealed. Apart from the happenings under the Act (listed above) the following are covered in the General Application Regulations 1993: collapse of lifting machinery; the explosion collapse or bursting of a pressure vessel; an electrical short circuit/overload that causes fire or explosion and results in stopping a plant for over 24 hours an explosion or fire that stops normal work for over 24 hours if due to the ignition of materials or products; escape of flammable substances; collapse of scaffolding; escape of a substance that may injure a person; the failure of a freight container while being raised, lowered or suspended; the bursting, explosion, collapse or ignition of pipe-lines; incidents involving the conveyance of dangerous substances by road; the malfunctioning of breathing apparatus; incidents involving overhead electric lines.

Dangerous Occurrences: Notification

SHWW Act 2005, S 8(2)(k)

SI 44/93, Reg 59

As with the definition of the term dangerous occurrence, the obligation to report a dangerous occurrence has now been incorporated into the SHWW Act 2005, but the reporting requirement in the General Application 1993 still applies, as Part X was not repealed by the General Application Regulations 2007. It is more extensive than the requirement in the Act as it provides for notification to the HSA as soon as is practicable in writing but if death is involved by the quickest possible means; e.g. phone.

Dangerous Preparations: classification, packaging, labelling

SI 62/04

SI 271/08

The regulations are primarily concerned with the obligations of persons placing dangerous preparations on the market. They are required to classify and label the preparations according to their inherent hazards. The regulations are concerned to ensure that those who use dangerous preparations should have adequate information so that they can be used safely.

The regulations classify dangerous preparations by reference to dangerous substances (see regulation 5), which include substances and preparations that are: oxidizing, extremely or highly flammable or just plain flammable, toxic or highly toxic, harmful, corrosive, irritant, sensitising, carcinogenic and mutagenic. The

regulations detail how the hazards are to be determined and the general principles of classification and labelling,

The regulations required those placing dangerous preparations on the market to supply SDS. SDS may be provided on paper or electronically. The regulations include three new risk phrases: R66 – repeated exposure may cause dry skin or cracking; R67 – vapours may cause drowsiness or dizziness; and R68 – possible risk of irreversible effects. There are two new safety phrases: S63 – in case of an accident by inhalation remove casualty to fresh air and keep at rest; and S64 – if swallowed rinse mouth with water (only if person is conscious).

The purpose of the 2008 amendment regulations is to reflect changes in EU Regulations, in particular the REACH Regulation.

Dangerous Substances

Ss 11, 16, 17, 22, 24, 25, DSA 72.

SI 311/79, SI 312/79, SI 313/79, SI 314/79,

SI 128/88, SI 303/88, SI 201/90

SI 44/93 Sch 12 (8)

Petrol and explosives are dangerous substances. They must be stored under licence. Storage containers should be marked, e.g. 'Highly inflammable', 'Explosive'. All practical steps should be taken to avoid injury. When Liquefied Petroleum Gases (LPG) are stored, containers must be adequate, there must be a programme of maintenance, records must be kept, personnel must be trained and emergency procedures should be in place.

Dangerous Substances: Classification, Labelling, Packaging, Notification

SI 116/03

SI 272/08

The Dangerous Substances CPL regulations were codified into one of set of regulations in late 2000. The regulations introduced in 2000 have now been repealed and replaced by the 2003 Regulations, which wisely again adopt the codified approach.

The purpose of the regulations is to protect man and the environment from the harmful effects of dangerous substances. A manufacturer, importer or other person bringing a new chemical to the market must notify the HSA of the tests to which it has been subjected, its proposed classification and how it will be labelled. From the point of view of the user the labelling and the provision of the safety data sheet is crucial. Suppliers must provide safety data sheets. Safety data sheets must be provided free of charge and must include all information necessary to protect man and the environment.

The regulations set out risk phrases, which now include risk phrases, such as "R65" and "Harmful: may cause lung damage if swallowed". Fifteen different categories of substances are classified as being dangerous. These include substances which are: explosive; oxidising;

extremely flammable; highly flammable; liquids having a low flash point; very toxic and toxic; corrosive; irritant; sensitising; carcinogenic; mutagenic; toxic for reproduction; and dangerous to the environment.

Labelling on packaging must show the name of the dangerous substance, who has put it on the market in the EU, danger symbols, risk and safety phrases and an EU number, if one has been allocated.

As the purpose of the regulations is to protect both users and the environment, where suppliers become aware of any new possible harmful effects they must notify the HSA.

The purpose of the 2008 amendment regulations is to reflect changes in EU Regulations, in particular the REACH Regulation.

Dangerous Substances: Marketing and Use

SI 220/03, SI 503/03, SI 852/04, SI 364/06
SI 220/03 revokes earlier regulations. It readopts EU Directives, including the parent Directive 76/769/EEC and implements a number of newer EU Directives. In a long first schedule dangerous substances and preparations are listed and conditions as to their marketing and use specified. The purpose of the regulations is to prevent dangerous substances and preparations being placed on the market unless certain conditions have been complied with. Among the substances now regulated is creosote. Further substances and preparations, including arsenic treated wood preservative, were added to the list with the enactment of the Amendment Regulations. At the end of 2004 more substances were added to the list, including nickel and its compounds, and certain cement and cement preparations. And towards during 2006 further substances, including toluene and trichlorobenzene.

Demolition

SI 504, Part 12, Regs 93-96
Contractors are required to, when demolition may present a danger, to take precautions and ensure that work is planned and undertaken only under the supervision of a competent person. Steps must be taken to prevent fire, explosion or flooding.

Disabled Employees

SI 299/07, Reg 25
Places of work shall be organized to take account of people with disabilities, in particular as regards, doors, passageways, staircases, showers, washbasins, lavatories and workstations.

Dust

Ss 38, 58 FA 55, amended by Ss 20, 21, SIA 80.
S 70 MQA 65
SI 467/97, sch 2(4)
In factories and mines if the work process gives rise to dust, fumes or other impurity that might be offensive, exhaust appliances shall be provided as near the source

as possible to prevent such from entering the air. If an internal combustion engine is used provision shall be made to conduct exhaust gases into the open air. Where work has to be done in a confined space in which dangerous fumes are likely to be present, no person shall enter the place until the fumes are removed or other specified precaution taken. Work equipment and machinery shall be fitted with devices to contain or extract gas, vapour, liquid or dust. Eyes must be protected. Glasses, goggles, face shields, screen masks and helmets should be provided.

Because of the dangers of flammable dust in mines smoking, the carrying of tobacco, flame cutting and welding (except in exceptional circumstances) are forbidden and steps must be taken to reduce flammable dust deposits.

Duties of Employers: General Duties

SHWW Act 2005, Part 2, Sections 8-12
SI 504/06, Part 3, Reg 24.
Current legislation, both European and Irish, imposes on employers a range of duties. In the 1989 Act the duties were set out in one section and amplified by the General Application Regulations. The SHWW Act 2005 takes a different approach, although the substance is substantially the same. Employers have a range of general duties (see immediately below), which are set out in detail and also the duties to provide information, training, supervision and in relation to emergencies are classified as general duties (see under appropriate headings).

Section 8 sets out what are specifically termed general duties. These duties are set in the context of the phrase "it shall be the duty of every employer to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his employees". It is sometimes thought that the phrase "reasonably practicable" provides a let-out for employers. This is not so. The enforcement procedures place the onus of proof on the employer to show that he did all that was "reasonably practicable". A review of court judgments show that the courts expect an employer to do all that is "reasonably practicable". So in deciding what is reasonable and practical a prudent employer will weigh the risks carefully against the cost and will bear in mind the knowledge he will be imputed to have had if trouble arises in the future.

The duties, many of which are expanded upon and amplified by later sections of the SHWW Act 2005, extend to include:

- the duty to manage, which is new
- that access and egress to the place of work is to be so designed, provided and maintained to be safe
- that machinery and plant be so designed, provided and maintained that it is safe and without risk to health
- that articles or substances used are safe and without risk to health
- that information, training and supervision are given

- that measures to protect health and safety are to be based on hazard identification and risk assessment
- that PPE be provided where risks cannot otherwise be eliminated
- that emergency plans be prepared
- that accidents and dangerous occurrences be reported
- that a competent person shall be employed to oversee health and safety standards.

The 'general' duties are incorporated into the Construction Regulations.

Employers also have a duty to manage and conduct their undertaking so as to ensure, in so far as is reasonably practicable, that in the course of work, individuals (who are not employees, i.e. members of the public) at the place of work are not exposed to risks to their health and safety.

Duty of Employers: to provide information

SHWW Act 2005, S9 (see below under information)

Duty of Employers to Consult

SHWW Act 2005, Part 4, Sections 24, 25, 26 (see above under Consultation)

SI 504/06, Part 2 Regs 17, 23, 28

The duty to consult is incorporated into the Construction Regulations (see above under Construction Consultation).

Duty of Employers to co-operate

SHWW Act 2005, 21

Where employers share a place of work, they are required to co-operate on complying with and implementing health and safety legislation. In doing so they should take into account the nature of the work carried on and co-ordinate their activities and inform each other and their respective employees/safety representatives of risks from their work activities. They should exchange safety statements or relevant extracts relating to hazards and risks.

Duty of Employees

SHWW Act 2005, S 13, S 14

SI 504/06, Part 3, Reg 29.

Employees are under a duty to:

- take comply with statutory provisions and take reasonable care for their own safety, health and welfare, and take reasonable care for others who might be affected by their acts or omissions
- not to be under the influence of an intoxicant (see Intoxicants below)
- co-operate with employers and others to ensure safety, health and welfare,
- not to engage in improper conduct or behaviour likely to endanger himself/herself or others (this has been interpreted as covering bullying and horseplay)
- attend training and undergo reasonable assessments
- use protective clothing and equipment in the manner intended to secure safety, health and welfare

- report to their immediate supervisor or employer, without reasonable delay, defects in equipment premises, systems of work, which might endanger safety, health and welfare
- not intentionally or recklessly misuse or interfere with equipment provided for securing safety, health and welfare
- not to on entering a contract of employment misrepresent his/her level of training.

Employees and others shall not recklessly or without reasonable cause interfere with, misuse or damage anything provided for securing health and safety, nor shall they place at risk the health and safety of persons in connection with work activities.

As regards employees the Construction Regulations re-iterate the requirements to comply and to co-operate. Specifically in construction terms they require employees to make proper use of safety helmets, harnesses and PPE and to show Safe pass and CSCS cards.

Duties of Third Parties

SHWW Act 2005, S 15, S 16, S 17

SI 504/06, Part 2

Third parties comprise a wide group of people, many of whom might be surprised to find themselves the subject of responsibilities under health and safety legislation. The SHWW Act 2005 (section 16) draws in a wide range of people; designers, manufacturers, importers, suppliers, installers, erectors, architects, builders, who are third parties. The Construction Regulations expanded the group to include those 'clients' who initiate projects and also includes designers. The duties imposed by the Construction Regulations 2001, were incorporated into and expanded upon in the section 17 of the SHWW Act 2005 and set out in more detail in the Construction Regulations 2006.

Third parties have responsibilities to: ensure that, in so far as is reasonably practicable, any item is designed, constructed, tested and examined, provide adequate information about the use of the item, carry out research, tests and examinations, so as to ensure the item is safe and not a danger to health.

The client in a building project is under a duty to appoint project supervisors for the design and construction stages of a building project and to notify the HSA if project will last longer than 30 working days or 500 person days.

Persons who have control of places of work are required to ensure that the means of access and egress and substances/articles are safe.

E

SI 50/72 Quarries (Electricity) Regulations 1972

SI 51/72 Mines (Electricity) Regulations 1972

SI 123/72 Mines (Explosives) Regulations 1972

SI 125/79 Mines (Electricity) (Amendment) Regulations 1979
SI 126/79 Quarries (Electricity) (Amendment) Regulations 1979
SI 176/85 Employment Equality Act 1977 (Employment of Females in Mines) Order 1985
SI 153/91 Employment Equality Act 1977 (Employment of Females on Underground Work in Mines) Order 1989
SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993
SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997
SI 71/03 The Stores for Explosives (Amendment) Order 2003
SI 258/03 Safety, Health and Welfare at Work (Explosives Atmospheres) Regulations 2003
SI 504/06 Safety, Health, Welfare at Work (Construction) Regulations 2006

Earthmoving Machinery

SI 504/06, Part 11, Regs 87-92
Earthmoving machinery should be of good design and construction that takes account of ergonomic principles. It should be maintained in good working order. Operators should be competent people aged 18 or over. A person aged under 18 who is being trained may operate such machinery if directly supervised. Site traffic shall be organised so as to ensure safe access and operation. Where an operator's visibility is restricted an efficient warning device must be fitted. Precautions must be taken to prevent machinery from overturning or overrunning the edge of an excavation, shaft, embankment, earthwork, or water. No worker shall ride on an insecure position. Machines should be fitted with such barriers as are required to prevent the driver being crushed if the machine overturns.

Egress

SHWW Act 2005, S 8(2)(c)(ii)
Employers are obliged, in so far as is reasonably practicable, to design and provide safe means of access and egress to and from workplaces. This section has recently given rise to controversy about exit route doors opening outwards (see Emergency Routes below)

Electricity

SI 299/07, Part 3, Regs 74-93
The electrical safety regulations might be described as being codified in The General Application Regulations.

Electrical equipment is defined as including any conductor, cable, machine, appliance, apparatus used or intended to be used for generation and transformation of electrical energy. Employers have a duty to ensure electrical installations are designed and constructed to prevent danger. Danger means a risk of death or personal injury or danger to health from electric shock, burn, explosion, arcing, or fire caused by the use of electricity or the mechanical movement of electrically driven equipment.

All electrical equipment and installations shall be constructed, installed, maintained, protected and used so as to prevent danger (Reg 76), exposure to adverse or hazardous environments (Reg 77) and shall be identified so as to prevent danger, display ratings, showing it is suitable for the purposes used and showing the maker's name (Reg 78).

Work activity should be carried out in such a manner as not to cause danger (Reg 86). Where danger may be caused only persons with the necessary knowledge or experience or persons under such a person's supervision may work. They may only work near live parts in restricted circumstances, reasonableness being the criteria (Reg 86). They must have adequate space, light, and means of access and egress (Reg 87). Only competent people or those working under the supervision of competent people shall work on any activity where technical knowledge or experience is necessary to prevent danger (Reg 88).

To protect against shock, in normal conditions all live parts should be covered with insulating material and protected, including being suitably placed so as to prevent danger (Reg 79) and in faulty conditions where an exposed conductive part may become live, earthing or automatic disconnecting precautions should be taken (Reg 80).

A circuit or a socket outlet supplying portable equipment in which current is at a voltage exceeding 125 volts but not 1,000, should be protected by one or more current devices having a tripping current not exceeding 30 milliamperes. Portable equipment (other than transformers or generators) supplied at a voltage exceeding 125 volts alternating current shall not be used in building operations, engineering construction, damp or confined locations unless the rating exceeds 2 kilovolt amperes. Neither in such operations shall portable handlamps be used at a voltage exceeding 25 volts alternating current 50 volts direct. If a transformer is supplied at a voltage not exceeding 125 volts alternating current to portable equipment or 25 volts to a handlamp, it shall be double wound and the centrepoint of the lower voltage or secondary winding shall be connected to earth (Reg 81).

In order to prevent danger:
electrical joints and connections shall be of adequate construction (Reg 82),
effective means shall be provided to protect against overcurrent, (Reg 83),
means shall be provided to isolate or switch off electrical supply (Reg 85),
precautions shall be taken against dead electrical equipment becoming live (Reg 85).
effective provision shall be taken against leakage from currents to earth (Reg 90).

Substations shall be erected so that they cannot be interfered with and only authorised persons can enter. They should be under the control of an authorised person (Reg 91). Fences 2.4 metres high should protect

transformers or switchgear placed outdoors, in which high voltage is used, unless they are covered by metal or suitable non-metal casting (Reg 92). The most publicised danger, overhead wires should be well clear of the ground or otherwise guarded so as to prevent contact with people or objects. There should be provision to prevent danger in the event of an accidental fall (Reg 93). All new installations and major alterations or extensions shall be tested by a competent person, who shall if the Regulations have been complied with issue a verifying certificate.

Electrical Apparatus: Mines and Quarries

S 65 MQA 65

SI 50/72, SI 51/72

SI 125/79, SI 126/79

Mines and quarries shall be provided with electricity generated by equipment which has been soundly constructed, tested and inspected. An inspector has the power to prohibit the use of electricity below ground.

Emergency Duties

SHWW Act 2005, 11

Employers when preparing or revising plans and procedures to be followed in the case of an emergency or serious and imminent danger must, taking account of the nature of the work and the size of the place of work, provide first-aid, fire-fighting and evacuation measures, arrange necessary contacts with emergency services and designate employees who are required to implement the plans, procedures and measures. The employer must ensure that the number of employees designated and their training and equipment are adequate.

In the event of a serious and imminent danger employees must, as soon as possible, be informed of the risks involved and the steps being taken to protect them. If the danger is serious, imminent and unavoidable an employer must take action and/or (or both) give instructions to employees to either stop work and immediately leave the place of work and go to a safe place. Only employees who have received adequate instructions shall have access to an area where a serious specific danger exists.

Emergency Routes and Exits

SI 299/07, Reg 12

Emergency routes and exits must be kept clear at all times and lead directly into a safe area. It must be possible for employees to evacuate as quickly as possible. One of the most controversial provisions of the General Applications Regulations is the requirement that emergency exit doors must open outwards.

Employment Prohibitions

S 3, YPA 96,

Ss 107-110, MQA 65

Ss 107-110, MQA 65

S 10, OFFIN 87,

SI 176/85, SI 153/91

There has been a significant shift in public policy on prohibiting women from certain categories of work. The restrictions on the employment of women in the mining/quarrying sector have been amended by Employment Equality legislation. The principal prohibitions on employment are now concerned with protecting the safety, health and welfare (particularly in an educational) sense of young people.

The general rule is that the employment of people under 16 is prohibited. There are limited exceptions to this which are concerned with hours of work and will be dealt with under that heading. People under 18 shall not be employed on off-shore installations, nor shall people who have not received training to do work without supervision, unless they are under supervision or instruction by a competent person.

Equipment Testing - Offshore

S 32, OFFIN 87.

After an accident or dangerous occurrence the Authority may order that plant and equipment be examined by a competent person.

Escalators

SI 299/07, Reg 15

Escalators and travelators shall function safely, be equipped with safety devices and have accessible emergency shut down devices

Excavations/Earthworks

SI 504/06, Part 5, Regs 51-56

Adequate precautions shall be taken in any excavation, shaft, earthwork, underground works or tunnel to guard against: danger from a fall or dislodgment of earth, rock or material; the fall of people, materials, objects; or the inrush of water. Also adequate precautions shall be taken to secure ventilation, to maintain an atmosphere fit for respiration, to limit fumes, gases, vapours, dust, to levels not injurious to health; to enable workers to reach safety in the event of fire or inrush of water or materials and to avoid dangers from underground cables, fluids or gases by seeking to locate them before excavation begins.

Excavations and earthworks shall be inspected by a competent person at least once every day and the face of every tunnel and the working end of every trench more than 2.00 metres deep and crown of every shaft at the commencement of every shift. Before a person shall be permitted to work in such areas a competent person should inspect particularly the areas in which blast explosives were used or where shoring or support has been damaged and every part within the immediately preceding seven days. A report of every such examination shall be made on the day of the examination. If a fall or dislodgment from more than a height of 1.25 metres is not likely this regulation shall not apply nor provided adequate precautions are taken does it apply when inspections/examinations are being carried out. Shoring and other support work shall be carried out by experienced workers under the direction of a competent person and such work shall be of good

construction, adequate strength and free from patent defect.

Such work areas shall be fenced off if people might fall more than 2 metres and materials and vehicles shall not be placed near such areas if they could endanger people working.

Explosives

SI 44/93, Sch XII, Para 9;

SI 504/06, Part 8,

S 66 MQA 65.

SI 123/72

SI 467/97, schs 2(16), 3(9), 4(5)

SI 71/03

The references to explosives in Health and Safety legislation should be read in conjunction with the Explosives Act 1875. The explosion of an explosive is regarded as a dangerous occurrence. Explosives should only be used by competent or qualified people. They should only be used after they have been properly prepared. Workers and other people should not be exposed to risk. Explosives for use in construction work should only be transported, stored, handled, by competent persons. Explosives should not be stored below ground in any quarry, tunnel or other underground place of work (with the exception of mines).

Explosive Atmospheres

SI 83/99

SI 258/03

The regulations set out the principles for the prevention of explosions arising from electrical and non-electrical sources and standards for equipment in use in potentially explosive atmospheres. Equipment must bear the CE mark and must comply with health and safety requirements. New regulations, which came into force on June 30th 2003, require employers to classify workplaces where explosive atmospheres may occur into either hazardous or non-hazardous places. The regulations transpose into Irish national law the EU Explosive Atmospheres Directive (1999/92/EC, which is otherwise known as ATEX 137). If there is the likelihood of an explosive atmosphere employers are required to carry out a risk assessment and record details in a risk assessment document and they are required to take measures to protect employees against the risk of explosion. All measures must be reviewed regularly. (*For more detailed article see HSR July/August 2003, p23*)

Explosive Atmospheres: mines and quarries

SI 467/97, schs 1(7), 2(13), 3(70), 4(9), 5(5)

SI 28/08, reg 32

Measures should be taken to prevent an explosive atmosphere building up. The measures should be specified in the safety statement. If automatic or continuing monitoring devices are necessary devices should be fitted to isolate electrical power and fuel supplies.

External Dangers: Mines

MQA 65, Ss 71, 72, 73, 74.

Mine owners and managers have a duty to be aware of external dangers such as the proximity of disused workings, inrushes of gas, water thickness of strata between workings and surface water. Where inspectors are of the opinion that steps are not being taken to avoid dangers, they may serve a notice requiring the manager of a mine to take such steps.

Extractive Industries

SI 467/97

SI 28/08

The extractive industries are mines, quarries and the offshore or onshore drilling industries. The Extractive Industries Regulations give effect to EU Directives on health and safety in the drilling industry and in mines and quarries. Before the adoption of the regulations a large body of law, both Acts (Mines and Quarries Act 1965 and Safety, Health and Welfare at Work [Off-Shore Installations] Act 1987) and regulations made under these Acts were in place. The new regulations did not repeal any of the existing legislation (which is noted under appropriate headings in this Dictionary) but rather complemented it.

The regulations build upon the General Application Regulations (SI 44/93, now SI 299/07) and are drafted to be consistent with the general principles of safety enunciated by those regulations and the SHWWA 1989 (now the SHWW Act 2005). The regulations specify the general duties of employers, which are to provide a safe place of work, to furnish safety information and to provide health surveillance. Much of the detail of the regulations is set out in five schedules. The first schedule is concerned with requirements that apply to all extractive industries and requires the employment of competent employees, the provision of training, the giving of written instructions, the application of safe working methods, regular review of safety measures, maintenance of plant and equipment, protection from hazards, and the provision of first-aid rooms, as well as detailed requirements as to the place of work. The second schedule is concerned with underground extractive industries, the third with surface, the fourth with drilling onshore and the fifth with drilling offshore.

The schedules specify requirements regarding ventilation, fires, withdrawal of employees, identifying numbers of employees, workplace organisation, supervision, traffic routes, work permits, emergency routes, evacuation, safety drills, lighting, and sanitary installations.

The regulations specify a number of matters that must be addressed in safety statements. These include reference to: the co-ordination of measures by the principal employer to co-operate, instructions on the safety and health of employees and safe use of equipment, recording of measures for assessing harmful or potentially explosive atmospheres, slips or

falls on the ground, work permit systems, safety drills and details of acoustic and optical alarms.

A scheme of maintenance for plant and equipment must be drawn up. To prevent fires or explosions smoking is banned, as is the carrying of tobacco.

Eye/Face Protection

SI 299/07, Part 2, Chapter 3, Schedule 3 Part A(3)
Employers are obliged to provide goggles, face shields or screens to protect employees from injury that may be caused workplace activities. A non-exhaustive list mentions some such possibilities. Eyes must also be protected from use of VDUs (DSEs), the regulations for which will be dealt with under the heading VDUs, though it should be noted here that workers using such equipment are entitled to have their eyes and eyesight tested.

F

SI 48/93 Merchant Shipping (Musters) (Fishing Vessels) Regulations 1993
SI 325/97 Safety, Health and Welfare at Work (Fishing Vessels) Regulations 1999
SI 325/99 Safety, Health and Welfare at Work (Fishing Vessels) Regulations 1999
SI 10/00 Building Control Amendment Regulations 2000
SI 586/01 Fishing Vessels (Personal Flotation Devices) Regulations 2001
SI 587/01 Fishing Vessels (Basic Safety Training) Regulations 2001
SI 417/02 European Communities (Safety of Fishing Vessels) Regulations 2002
SI 418/02 Fishing Vessels (Safety Provisions) Regulations 2002
SI 633/03 European Communities (Safety of Fishing Vessels) (Amendment) (No 2) Regulations 2003
SI 634/03 Fishing Vessels (Safety Provisions) (Amendment) Regulations 2003
SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Factory - definition

FA 55, s3,
SIA 80, s3

While attention is now concentrated on workplaces, the term factory is still defined by law. The definition is long, running to over four pages, between the original and amending definitions. The basic definition is a commonsense one. 'A factory' covers any premises in which, or within the close curtilage of which, persons are employed in manual labour making an article or part of an article, in altering, preparing, ornamenting, finishing, cleaning or washing, breaking up or demolishing of any article. The following are specified to be factories; ship yards or dry docks, sorting premises connected to manufacture where bottles and containers are washed and filled, hooking, plating lapping of yarns is carried on, laundry, garage, printing work, theatrical workshop, where fishing nets are made or mended, wood or metal workshops, film studios,

where articles are made for building or engineering, gas storage of 5,000 cubic feet and floor scutching premises, fowl plucking premises, egg packing premises, bacon or meat abattoirs.

Fire Precautions

FA 55, Ss 45, 46, 47, 48

SIA 80, Ss 22, 23.

SI 10/00

SI 504/06, Reg 45

SI 299/07, Part 1, Chapter 1, Reg 13

With the enactment of the General Application Regulations 2007 fire detection and fighting measures have been brought into the mainstream of health and safety legislation. Employers must ensure workplaces are equipped with fire-fighting equipment, fire detectors and alarms and ensure these are inspected and maintained.

Fire precautions require:

the provision of a means of escape in the event of a fire, as amended by: the plans for such escape means and route to be approved by the SIA sanitary authority when more than 10 people are employed, that the escape route shall be kept clear of obstruction, that the exit doors shall open easily, that escape doors open out, if not there should be sliding doors where more than 20 people (5 on higher floors) are employed, that lifts be enclosed in fire resistant materials, that exits be marked green that fire drills be carried out.

It is for the Sanitary Authority to give a certificate to certify that in respect of a factory the means of escape provided are reasonable. The certificate shall be detailed as to the means of escape and the maximum number employed. Escape routes shall be kept free from obstruction and properly maintained. While the Fire Services Act 1981, is not listed in official publications as health and safety legislation, all practitioners will be aware of the effort and money expended on ensuring fire safety. Regard should be had to Section 18 of the Act, which sets out the general obligations as to fire safety and the premises covered.

The Act applies to premises such as hospitals, nursing homes, schools, hotels, pubs and clubs, and by Statutory Instrument 319/89, Fire Services Act 1981 (Prescribed Premises) Regulations, factories are brought within the scope of the Act. The general duties imposed by the Act require a person who has control of a premises to take all reasonable measures to guard against the outbreak of fire and of persons on the premises not to expose themselves or others to fire dangers.

When applying for a fire safety certificate, the Building Control Regulations require that the applicant must furnish the name, address and phone number of the person who owns the building, specify to where notifications are to be sent and give the name and address of the firm who prepared the building plans.

The address where the work is to be carried out must be given. (*For more information see HSR March 1999 p16 and April 1999 p17*)

Employers are now required to provide the necessary measures for fire fighting and evacuation to be taken in emergencies. In doing so employers are required to take account of the nature of the activities and the size of the workplace. They are also required to arrange contact with emergencies services, and as regards first-aid, emergency care and fire-fighting. Employers are required to designate employees as fire fighters. See first-aid below for provisions in relation to first-aid. (*For more details see HSR, April 2003, p1 and p20*)

First Aid

SI 299/07, Part 7, Chapter 2, Regs 163-166

First-aid is defined. It covers a case where a person requires treatment from a registered medical practitioner or a registered general nurse for the purpose of preserving life or minimising the consequences of injury or illness, until the services of such a person are available, or treatment for a minor injury which would not require the services of such a person.

Those who give first-aid should be recognised Occupational first-aiders. An occupational first-aid is a person trained and qualified in occupational first aid. An employer is under a duty to have such number of occupational first-aiders at each place of work under his/her/their control as is necessary, taking into account the size and/or the hazards of the undertaking.

Employers are under a duty to maintain such first-aid facilities as are appropriate taking working conditions into account. This may, if the size of the undertaking requires it, mean having a first-aid room which should be fitted with all essential equipment and which should be easily accessible for stretchers. The regulations regarding first-aid rooms do not apply to work taking place in a means of transport, a fishing vessel or a field/wood attached to, but away from, farm buildings/buildings. Details of the arrangements made for first-aid, including the names of occupational first-aiders and the location of equipment, rooms and facilities shall be included in the safety statement.

Employers are required to designate at each place of work such number of occupational first-aiders as are necessary to render first-aid at the workplace and to ensure that the training given and equipment available to the first-aiders is adequate. A new FETAC training standard came into force on September 1st 2008. (*For more details see HSR, April 2003, p1, June 2008, p18 and September 2008, p12*)

Fishing vessels

SI 48/93

SI 325/99

SI 586/01

SI 587/01

SI 417/02

SI 418/02

SI 633/03

SI 634/03

The EU Fishing Vessels Health and Safety Directive was finally adopted by Ireland in October 1999. The regulations giving effect to the directive require that the owners and those who employ workers on fishing vessels provide information, training and instruction and consult with workers. Owners of vessels must take account of meteorological forecasts, ensure that vessels are cleaned regularly and that hygiene standards are maintained. Employers must ensure that training covers accident prevention, fire fighting, use of life saving and survival equipment and the use of fishing gear and haulage equipment. The person in charge of the vessel should be trained in the prevention of occupational illness, stability and maintenance of the vessel and radio navigation and communication. Regulations introduced in 2002 (SI417/02) provide that owners and masters of vessels may be guilty of an offence by not complying with design rules, by not carrying on board certificates of compliance and by having equipment that does not correspond with the certificates of compliance. Regulation SI 418/02 requires a certificate of compliance to be carried on board fishing vessels and set out rules regarding such certificates and surveys.

Two types of fishing vessels are covered by the requirements of the regulations, existing vessels and new vessels. Existing vessels are ones that are not new and are in length 18 metres or over between the perpendiculars. A new vessel is one with a length of 15 metres between the perpendiculars which was either built or underwent a major conversion after November 1st 1995. Construction standards are detailed in the schedules to the regulations.

In defining who is a worker the regulations take account of the nature of the industry and define a worker as either an employee or a self employed person who is carrying out work on board the vessel, or at the quayside (except persons whose work is primarily on-shore). The term includes port pilots. The earlier regulations provide that on fishing vessels of 16.5 metres or more musters must be held for the purpose of training crew members to deal with emergencies. Skippers of vessels that are between 12 and 16.5 metres in length are required to ensure that crew is trained in the use of fire-fighting and life saving equipment.

Regulations adopted late 2001 require that all fishing vessel crew members should wear personal flotation devices when on deck, whether a boat is at sea or in harbour. And from March 2002 onwards all new crew members will be required to undertake a course of basic safety training before they can work on a fishing vessel. Basic training covers personal survival techniques, elementary first-aid and fire prevention. Over a period of years the requirement for crew

members will be extended to over all crew (both new and existing) so that by March 2008 all crew members will have had to have completed basic safety training. Basic safety training is provided by Bord Iascaigh Mhara.

Freedom of Information

FoI Act

Since 2001 the Freedom of Information Act has applied to the HSA. The Act entitles people to apply to the HSA for information which is not otherwise publicly available. It gives rights of access to records held by the Authority, the right to access to reasons for decisions that relate to the applicant and the right to have incorrect or misleading information corrected. The rights apply to records created after April 21st 1998. Normally requests must be responded to within four weeks. The Authority may refuse requests for information on certain grounds, for example if a prosecution is contemplated.

G

SI 393/86 EC Road Transport (Recording Equipment) Regulations 1986

SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

Gas: detection off-shore

OFFIN 87, S 20

An alarm system which is adequate shall be maintained off-shore to monitor flammable or noxious gas. The installation manager is under a duty to maintain the system.

H

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 504/06 Safety Health and Welfare at Work (Construction) Regulations 2006

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Haulage apparatus: Mines

MQA 65, Ss 43, 44,

Mechanically or gravity operated winding or rope haulage apparatus shall where persons are carried be operated by a person aged 22 or over. Such person shall not work for more than eight hours in any one day. Rope haulage apparatus not carrying people may be operated by a person aged 18 or over. All such persons shall be competent to do the job.

Hazard Identification, risk assessment

SHWW Act 2005, S 19/20,

Every employer is bound to identify the hazards that the work and the workplace present and to assess the risks to health and safety. The risk assessment must be in writing. When carrying out a risk assessment an employer must take account of the work carried out at the workplace. The risk assessment must be reviewed

when there has been a significant change in the matters to which it relates or there is reason to believe it is no longer valid. The employer must implement any improvements identified in the risk assessment. While the Act does not state that all hazards identified should be noted in writing, it would seem advisable to do so, as it could, following an accident or an inspection, become an issue as to whether or not a hazard was identified

The hazard identification and the risk assessment form the basis for the Safety Statement.

Health Surveillance

SHWW Act, S 22, S2 (page 12, line 10 of Act)

Employers are under a duty to make sure health surveillance appropriate to the risks that may be incurred in the place of work is available to employees.

Health surveillance is defined as a periodic review aimed at protecting health and preventing occupationally related disease by identifying adverse variations in health as soon as possible.

Apart from this general requirement to carry out health surveillance, the regulations relating to certain specific topics, such as asbestos, noise, night work, and extractive industries, require employers to make health surveillance available. Workers in the extractive industries should be able to avail of health surveillance both before they commence work and at regular intervals afterwards. Employers must carry out health surveillance where employees are exposed to lead or ionising radiation.

Heights, working at: Construction

See Work at Heights

High Court Injunction

SHWW Act 2005, S 71

If the HSA are concerned that if work continues that the risk is so serious that it should be restricted or stopped, they can apply to the High Court for an order to stop or restrict the work. The Court may grant the order, grant it subject to conditions or refuse it. In order to permit urgent speedy action the application may be made without notice.

Holidays (see Working Time)

Hours of Work (see Working Time)

Humid Factories

FA 55, S63,

FA 55, S63,

A humid factory is one in which atmospheric humidity is artificially produced by steaming or other means. In such factories the following shall be provided: two hygrometers, one in the centre, one at the side, of each room, a humidity table, twice daily readings, between 10am and 11am and between 3pm and 4pm or other appropriate times.

I

SHWW Act 2005, s9, s13, s65, s66, s70, s72

Improvement Direction

SHWW Act 2005, S 65

An Improvement Direction is a notice from an inspector, where he is of the opinion that an activity is likely to involve risk to health and safety, requiring submission of a plan specifying the remedial action to be taken.

Improvement Notice

SHWW Act 2005, S66

An Improvement Notice is a notice from an inspector who is of the opinion that a person is contravening the statutory provisions or has failed to implement an Improvement Plan. The notice shall specify the inspector's reasons and set out the measures to be taken. A person who is aggrieved by a notice may appeal to the District Court within 14 days.

Improvement Plan

SHWW Act 2005, S 65

An Improvement Plan is a plan setting out the remedial action to be taken to comply with an Improvement Direction.

Information

SHWW Act 2005, S 9

Information must be provided in a form, manner and language that employees are reasonably likely to understand.

Employers are required when providing information to employees to ensure it is provided in a form, manner and language that the employees are reasonably likely to understand. The information provided must include information about hazards, the risks identified, the protective and preventative measures taken and the names of persons designated for emergency procedures and safety representatives (if any). This information must also be made available to the employees of others, who are at the place of work.

Employees who have safety responsibilities and safety representatives should, for the purposes of performing their duties, have access to risk assessments, information relating to accidents and dangerous occurrences, and information arising from protective and preventative measures taken.

Fixed-term and temporary employees must, before they commence employment, be given information on risks, health surveillance, any special qualifications or skills required at the place of work and any increased specific risks involved. When recruiting temporary employees, employers must give the temporary employment business concerned (basically the agency through which the employees are engaged) details of the necessary qualifications and specific features of the work and ensure that the agency gives information

about hazards, risks and protective/preventative measures to the temporary employee.

Information: HSA entitlement to

SHWW Act 2005, S 72

If the HSA believe that it is necessary in the interests of health, safety and welfare, they may require persons to furnish them with information. The request should be in writing. A person may appeal the request to the District Court.

Intoxicants

SHWW Act 2005, S 13

The provision in the SHWW Act 2005 that employees be subject to tests for being under the influence of intoxicants (drugs and alcohol or a mixture of both) is the most controversial section in the SHWW Act 2005. The provisions on testing for intoxicants will only be brought into force following consultation with the social partners. Even then the range of occupations likely to be affected is expected to be limited to those regarded as safety critical. Only competent registered medical practitioners (this suggests occupational medical specialists) or those working under their direction will be authorised to carry out tests.

Investigations/Special Reports

SHWW Act 2005, S 70

The HSA may order an inspector/other staff member or other competent person to investigate the circumstances surrounding an accident, a disease or other matter related to the general purposes of the Act and to report to it on the investigation. Such a report is known as a special report. If an accident at sea or on rail is involved, the consent of the Minister must be given as well as the consent of such other Minister as is appropriate.

Where the HSA considers it necessary, it may, with the consent of the Minister, direct that an inquiry be held. A competent person or persons (who shall be called a tribunal) shall be appointed to hold the inquiry, and shall have the powers of the District Court to summon witnesses and see documents. Special reports or the results of an inquiry may be published.

J

Joint Health and Safety Agreements

SHWW Act 2005, S 24

Joint health and safety agreements are a new concept, which will allow trade unions representing employees and employers to enter into agreements providing practical guidance for employers and employees on health and safety issues. Where such trade unions reach an agreement they may apply to the HSA to approve the agreement. If the Authority approves an agreement, inspectors shall take account of it when assessing an employer's compliance with legislation.

L

SI 178/56 Chains, Ropes and Lifting Tackle (Register) Regulations 1956
SI 207/79 European Communities (Wire, Ropes, Chains and Hooks) Regulations 1979
SI 426/81 Safety in Industry (Vehicle Lifting Tables and Other Lifting Machines) (Register of Examinations) Regulations 1981
SI 201/90 Dangerous Substances (Storage of Liquefied Petroleum Gas) Regulations 1990
SI 246/98 European Communities (Lifts) Regulations 1998
SI 249/00 Building Regulations (Amendment) (No 2) Regulations 2000
SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Leakage, Mines

MQA 65, S 60

Such steps as are necessary to minimise the leakage of air between passages in mines shall be taken.

Letterboxes (low)

SI 249/00

Low letterboxes present particular problems for postal delivery workers or others delivering documents or leaflets. The problems were highlighted by the Barclay and An Post case, in which a postman was awarded damages of £43,500 for injuries suffered as a result of having to put letters into low letterboxes.

As a result of the case new regulations, in common parlance known as the Low Letterbox Regulations, were introduced. They require that letterboxes be located at least 760mm (30 inches) high and not more than 1450mm (67 inches) above the level for standing outside the door. The regulations should be read in conjunction with Building Regulations Technical Guidance Document D.

Lifting Equipment

SI 299/07, Part 2, Chapter 2, Regs 42-61

The General Application (Use of Work Equipment) Regulations are concerned with mobile equipment and the lifting and non-lifting aspects of work equipment. Regulations 42-61 are concerned with lifts and lifting equipment used in the factories, in the construction sector and now in all sectors. The regulations are also concerned with chains, cranes, ropes and hoists (see above C), which must be read in conjunction with this regulation.

While the earlier regulations were concerned with specific equipment in specific workplaces, the new regulations are concerned with mobile (equipment that moves from site to site) and the lifting and non-lifting aspects of work equipment. Basically the effect of the new regulations is that lifting equipment in all workplaces must be checked to see that it is safe and to monitor for deterioration. Inspections must be carried out by competent persons and records of inspections must be kept for five years. It is specifically stated that

if the equipment is exposed to conditions which may cause deterioration inspections are required.

Lifts

FA 55, Ss 33, 34, 35

SI 178/56

SI 207/79

SI 426/81

SI 246/98

SI 299/07, Part 2, Chapter 2, Reg 47

The Factories Act, and subsidiary and other regulations, require that all equipment which is used for lifting purposes should be of good construction, sound materials, adequate strength, and free from defect. Where appropriate, there should be a gate, which should be fenced and marked to show safe loads and when persons can be carried. The provisions for inspection are set out in SI 299/07, Schedule 1.

Where a person using a machine cannot see a load, a person over 18 who can will give signals. No person under 18 shall be employed to operate a mechanical lifting machine unless adequately supervised, and then only for training purposes. A register of examinations shall be kept, detailing date, machine identification, and defects.

Regulation (SI 246/98) gives effect to the EU Lifts Directive and is concerned with permanent lifts that service buildings. It is presumed that lifts which bear a CE marking comply with health and safety standards. The safety standards are set out in Annex 1 of the Directive and are concerned with control of loading, construction, controls and hazards.

Lifting appliances: Construction

SI 299/07, Part 2, Chapter 2

While the new regulations on lifting introduced by the General Application Regulations 2007, apply to all workplaces and not just the construction industry, the regulations have particular applicability to the industry.

Lifting appliances listed in the include cranes, crabs, and winches. Lifting appliances shall be of good construction; sound materials; adequate strength; free from patent defect; properly installed, maintained and used; and used only for the purposes for which they are intended.

Such appliances should normally be inspected once a week by a competent person and a report should be made in the approved form. Appliances shall also be adequately and securely supported. Drivers' cabins shall be protected from the weather, be heated where practical, and be equipped with fire fighting equipment.

Cranes shall only be erected or dismantled under the supervision of a competent person. Only competent persons shall operate and give signals. Where visibility is not clear, a competent person shall be suitably

stationed to give signals. Safe loads shall be marked, and the appliance shall not be loaded beyond this load.

Lighting

SI 299/07, Part 2, Chapter 1, Regs 8, 12(i)
Lighting may be natural or artificial. It should be adequate to protect employees' safety and health. Installations should be fitted in such a way that they cause no risk of accident. Emergency lighting should be fitted where special risks arise if the artificial light were to fail.

Lighting: Mines

MQA, S 62
Every mine shall be sufficiently and suitably lit in all parts, by equipment, which has been soundly constructed, tested and inspected. An inspector has the power to prohibit the use of electricity below ground.

Lights, naked: off-shore

SI 201/90
OFFIN 87, S 14
The use of naked lights and smoking is prohibited in vehicles carrying dangerous substances, or in other places where an explosion may be caused.

On offshore installations, smoking or the use of naked lights is only permitted in accordance with rules made by the installation manager.

Liquefied Petroleum Gases

SI 201/90
Liquefied petroleum gas (LPG) must be stored in adequate containers, which are located on the site in accordance with the relevant codes of practice. They must be maintained and tested by a competent person, and must be identifiable and accessible for maintenance.

Records must be kept and precautions must be taken to prevent fire and/or explosion. Persons handling LPG must be trained. There must be suitable emergency procedures.

All accidents must be reported to the HSA. Records must be kept. The obligation to comply with the Regulations rests on occupiers of premises and the suppliers of LPG.

Loading Bays/Ramps

SI 299/07, Part 1, Chapter 2, Reg 16
Loading bays and ramps should be of suitable dimensions for the loads to be carried, have at least one exit point and if longer than the width of five vehicles have an exit point at each end. They should be safe enough to prevent employees falling off.

M

SI 372/95 European Communities (Machinery) (Amendment) Regulations 1995
SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 169/99 Merchant Shipping (International Safety Management) (Amendment) (Regulations) 1999
SI 218/00 Safety, Health and Welfare at Work (Pregnant Employees etc) Regulations 2000
SI 29/01 Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2001
SI 188/01 Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2001
SI 518/01 European Community (Machinery) Regulations 2001
SI 93/02 Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) (No 2) Regulations 2002
SI 353/04 Maternity Protection (Time Off for Ante-Natal Classes) Regulations 2004
SI 354/04 Maternity Protection (Protection of Mothers who are Breastfeeding) Regulations 2004
SI 51/06 Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2006
SI 74/06 European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006
SI 504/06 Safety, Health and Welfare at Work (Construction) Regulations 2006
SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993

Machinery (see also W: Work Equipment)

SI 299/07
SI 372/95
SI 518/01
Work equipment is defined as meaning any machine, apparatus, tool or installation used at work. Controls are needed to ensure such machinery is safe. Controls should be visible and identifiable. Where possible, controls should be placed outside the danger zones. If this is not possible, audible or visible warning signs should automatically act when the machinery is about to start. They should be clearly and easily understood.

Controls shall be such that deliberate action is necessary to start machinery. Machines must be fitted with controls that can stop a machine completely and safely. There must be an emergency stop device, and stop controls should have priority over start controls.

Guards shall be provided to prevent physical contact with machinery, which could lead to accidents. Guards shall be robust, not give rise to additional hazards, and shall allow for repair and maintenance work.

Machinery must comply with essential health and safety requirements, which are set out in detail in the Machinery Directive 98/37/EC (annex 1). It is an offence to place machinery on the market which does not meet with these requirements and which if it is properly installed and maintained and used for its intended purpose is liable to endanger health and safety. Annex 1 of the Directive is concerned with guards and stops and other mechanisms to protect workers from injury. (*For more detailed articles on machinery see HSR: December 2001 p21, November 2001 p15, also May 1998 p14*)

Machinery Cleaning and Maintenance

SIA 80, S 18

SI 299/07, Reg 31

Where possible, maintenance operations should be carried out when machinery is shut down. If this is not possible, proactive measures shall be taken.

Maintenance areas should be lit. If there is a maintenance log, it shall be kept up to date.

A person shall not clean a machine unless a safe system of work exists and he/she knows the machine, the safe system shall, where practicable:

before cleaning, isolate or cut off the power to drive the machine, allow that power may only be restored by the cleaner or a person acting with his/her knowledge, or if the helper has taken steps to know it is safe to restore the power, if the power cannot be isolated, the machine cannot remain in motion unless the cleaner agrees.

Machinery: Construction

SI 504/01, Part 11, Regs 87-92 Sch 6

Machinery, in the Construction Site Regulations, is considered as transport vehicles, earth moving and materials handling machinery, and locomotives. Such machinery should be of good design and construction, be properly maintained and used. It should be operated by a competent person aged over 18. Those under 18 who are being trained may use such machinery under the supervision of a competent person.

If the visibility of the operator of such equipment is restricted, a warning device must be fitted. A list of vehicles to which auxiliary devices and visual aids should be fitted is set out in schedule 6. So as to ensure safe operation, traffic shall be controlled and suitable access provided. Where machinery moves on rails, the rails shall be even, jointed by fish plates or double chairs, be supported on a firm surface, and laid in straight lines or such curves that will not present a danger of derailment. There should be buffers and stops at the end of each track, and adequate clearance so that people will not be crushed or trapped. Riding on insecure positions, such as the buffers or the running boards, is not allowed. Measures to prevent machinery from overrunning the edge of a shaft or excavation shall be taken, and drivers shall be protected against being crushed.

Machinery: Mines

MQA 65, s 76(2), s 78

SI 467/97, Sch 1(6)

All machinery shall be of good construction, adequate strength, free from patent defect and properly maintained. Exposed parts shall be fenced in. Internal combustion engines, steam boilers or locomotives may only be used with the consent of the Minister on inspection. Equipment that is located in an area where the risk of fire or explosion exists, should be fitted with protective and fail safe devices.

Machinery: Training and Supervision

SIA 80, S 17

SHWWA 89, s6

SI 299/07

A person who works a machine must be instructed as to its dangers, and the precautions to be observed.

He/she must be sufficiently trained to work the machine, or otherwise work under the supervision of a person who has a thorough knowledge and experience of the machine.

The general obligation to train, which is set out in the SHWWA 2005 and the General Application Regulations SI 299/07, must be observed (see Training).

Major Accident Hazards (Seveso)

SI 74/06

A major accident is an occurrence as a result of uncontrolled developments, such as a major emission, fire or explosion, leading to a serious danger to people and the environment, and which involves dangerous substances. Following a major incident at Seveso in Italy, the European Union enacted the major Accident Hazards Directive, commonly known as the Seveso Directive. The Directive was updated in 1996 and again in 2003. The 2003 Directive was transposed into Irish law in February 2006, by the European Communities (Control of Major Accident Hazards involving Dangerous Substances) Regulations 2006. Wisely when adopting the new regulations, the Government repealed the earlier regulations, so the entire requirements are set out in one document.

The regulations re-enact the provisions of the earlier regulations. The regulations specify two tiers of Seveso sites: Level I – lower tier sites and Level II – top tier or more dangerous sites. Operators are required to take all necessary measures to prevent major accidents and to limit the consequences of accidents, both for people and the environment. Operators are required to: have safe management systems in place; prepared safety reports; and be prepared for emergencies. The key new measures concern changes to the lists of named dangerous substances or generic categories of substances that are used to determine if the regulations apply and if so to what extent. Operators are required to consult the public about their external emergency plans on the control of major accident hazards involving dangerous substances. Another significant measure in the update regulations is the provision for exclusion zones around fertiliser storage facilities. The regulations now also apply to waste landfill sites. (*For further information on the Major Accident Hazards Regulations see HSR December 1998, p8, October 2003 p18 and April 2006, p12*)

Manual handling

FA 55, S 67(1),

SI 299/07, Part 2, Chapter 4, Regs 68, 69, Schedule 3

The legal rules regarding manual handling might be summed up thus: eliminate manual handling if possible and if this is not possible, do not ask an employee to lift, carry or move a load that is likely to cause injury. Employers should instead take measure to reduce the risk.

The above summary enshrines the principles of the Manual Handling Regulations and the Factories Act. Manual handling of loads is defined as transporting or supporting a load - which includes lifting, putting down, pushing, pulling, carrying it or moving it - where risk, particularly of back injury, is involved, because of the characteristics of the load or unfavourable ergonomic conditions.

If it is not possible to eliminate manual handling it should be reduced by organising work and work stations to take account of the characteristics of loads. Employees should receive information on the weight of each load and its centre of gravity on the heaviest side when eccentrically loaded. Employees at risk include those who are unsuited to the task, those wearing unsuitable clothing, and those without adequate or appropriate knowledge or training.

Reference factors to be considered in relation to the manual handling of loads are:
characteristics of the load: too large, heavy, unwieldy, unstable,
physical effort: the effort required to move it may be too strenuous, achieved by twisting the body's trunk,
working environment: not enough room, uneven or slippery floors,
requirements: may require over frequent or long activity, insufficient rest, excessive lifting.

Maternity rules

MPA 94, Ss 8, 17, 18, 19, 20

SI 18/95, SI 19/95, SI 29/01, SI 218/00 SI 353/04, SI 354/04, SI 51/06

While here we are referring to specific health and safety sections of the Act and Regulations, in some respects it could be said that the entire Act and all the nine Statutory Instruments under the Act are health and safety related.

When a woman tells her employer that she is pregnant, the employer must assess any risks to the health and safety of the woman and the unborn child. If the assessment reveals a risk, then the employer must inform the employee of the risk. Then the employer must see if the work or hours of work can be adjusted so as to eliminate the risk. If this cannot be done, then the employer must, if possible, next offer the employee suitable alternative work. If this option is not possible, then the employer must grant health and safety leave. Health and safety leave must also be granted to employees who are breastfeeding, if there is a risk to the mother or child. Employees who are pregnant, or

mothers who are nursing, are entitled to time off, without loss of pay, to attend ante or post natal care.

The factors to be considered when assessing if there is a risk to the health and safety of the pregnant woman, the nursing mother or the child (born or unborn) are: physical, biological or chemical agents, some industrial processes and underground mining work. Special attention must be paid to night work.

Reference to the HSA's Guide to the Pregnant Employees Regulations is advisable. The Guide makes it clear that risks to pregnant employees "are part of the routine risk assessments" at workplaces and should not be left until pregnancy is notified.

The most recent regulations have extended the period of paid maternity leave to 26 weeks from March 1st 2007. From March 1st 2006 women have been entitled to take an additional 12 weeks unpaid maternity leave.

Medical Examinations: Young persons

FA 55, S 80, amended by SIA 80, S 51

Persons under 18 (young persons) must be certified by a doctor as being fit to do the work expected of them. A doctor who refuses to give a certificate may be required by the young person's parents to give his/her reasons.

Medical Fitness

SHWW Act 2005, S 23

This section, which breaks new ground, will come into force at a late date, which will be specified in regulations. Employers will then be able to require employees of a class or classes that are prescribed to undergo assessment by a registered medical practitioner for their fitness to carry out work which gives rise to serious risks.

Medical Supervision

FA 55, S 20

The Minister, after consultation with the Minister for Health, may make regulations requiring arrangements for medical supervision, which may place limits on the numbers employed, hours worked and materials used.

Merchant Shipping

SI 169/99

The regulations give effect to Chapter IX of the Annex to the International Convention for the Safety of Life at Sea Code of Practice 1974. If the Minister for the Marine is satisfied that a company which operating a ship to which the Code applies is complying with the Code, the Minister may issue a Document of Compliance and in respect of the ship a Safety Management Certificate. Companies may only operate if they hold a Document of Compliance and a ship may operate only if a Safety Management Certificate is in force.

Mine: Definition

MQA 65, S3

A mine is defined as meaning an excavation or system of excavations aimed at getting minerals or products from below ground.

Mines: leakage

MQA 65, S 60,

Such steps shall be taken as are necessary to minimise the leakage of air between passages.

Mines: lighting

MQA 65, S 62

SI 467/97, Sch 2(22)

Every mine shall be sufficiently and suitably lit in all parts, either by the use of artificial lighting or lamps. All lighting shall be properly maintained. Adequate emergency lighting should be provided. Natural lighting should be available in so far as is possible

Mines: measuring instruments

MQA 65, S 61

An inspector may require barometers, thermometers, or hydrometers to be used to take measurements.

Mobile Phones

RTA 2006, S 3

The regulations banning the use of mobile phones were re-introduced in 2006, following the enactment of the Road Traffic Act. Use of a hand held mobile phone while driving is now an offence.

N

SI 299/07 Safety, Health and Welfare at Work (General Application) (Night Work and Shift Work) Regulations 2007

SI 299/07 Safety, Health and Welfare at Work (General Application) (Control of Noise Work) Regulations 2007

SI 504/06 Safety, Health and Welfare at Work (Construction) Regulations 2006

Nightwork and Shiftwork

SI 299/07, Part 6, Chapter 3, Regs 153-157

Employers are required to take appropriate steps to protect the safety and health of nightworkers and shiftworkers, to carry out a health assessment of the health and safety risks that attach to nightwork to determine if the work involves special hazards or heavy physical or mental strain.

Before employing a person as a nightworker to make available an assessment of the health effects of such work. Such assessments must also be made available at regular intervals while a person is doing night work. The assessment must be carried out by a registered medical practitioner or a person operating under his/her supervision.

If an employee becomes ill or exhibits symptoms of ill-health that are recognised as being connected with Nightwork, the employee must, if it is possible, be transferred to day work.

Nightwork is defined as meaning work between the hours of midnight and 7am. A nightworker is one who normally works at least three hours of his/her time during these hours and for whom the number of hours worked at night is at least 50% or more of the annual

hours worked. Night work should not exceed eight hours a night on average over a two month period. If the worker is a special category worker – one whose work involves special hazards or heavy physical strain – the working period shall not exceed eight hours in any 24 hour period. Special hazards are not specifically defined but are deemed to be those identified in collective agreements or by practice.

Noise

Hearing Injury Act 1998

SI 371/06

SI 299/07, Part 5, Chapter 1, Regs 120-132

Employers are required to assess the risks to employees from noise at work, take action to reduce noise exposure that produces those risks, provide employees with hearing protection, if noise exposure cannot be reduced enough by other means, make sure legal limits on noise levels are not exceeded, consult with employees and/or their representatives and provide information training and make health surveillance available where there is a risk to employees' health.

The new regulations introduced in 2006 and re-enacted in 2007, reduced the noise levels at which action must be taken to control noise and halved the limit value at which workers must not be exposed to noise. The upper exposure action value is $L_{EX,8h} = 85dB(A)$ and $p_{peak} = 137dB(C)$ in relation to 20 μPa . The lower exposure action value is $L_{EX,8h} = 80dB(A)$ and $p_{peak} = 135dB(C)$ in relation to 20 μPa . Exposure is calculated by reference to a nominal eight-hour time-weighted average working day as defined by ISO 1999:1990. In relation to exposure limit values, an employer shall take account of the attenuation provided by individual hearing protectors worn by employees, but shall not take account of such protectors in relation to the exposure action values. Where daily noise exposure varies markedly from day to day, an employer may measure the exposure level over a period of a week, provided that the weekly noise exposure level does not exceed 87dBA and appropriate measures are taken to reduce the risk.

Where employees are liable to be exposed to noise above the lower action value employers must carry out a risk assessment. If exposure cannot be reduced by other means employers are required to provide properly fitted hearing protectors, which should be made available if the lower action value (80dBA) is exceeded. If the upper action value (85dBA) is exceeded employees are obliged to use individual hearing protectors. Employers are required to make health surveillance available and to keep an individual record of each employee who undergoes health surveillance. (*For a more detailed summary of the regulations, see HSR September 2006, p22*)

The General Application Regulations list some activities where wearing hearing protection may be required.

As a consequence of the defence force's noise induced hearing loss cases the Civil Liability (Assessment of Hearing Injury) Act 1998 was passed by the Oireachtas. The Act defines hearing loss including "hearing loss caused by injury which results in the deviation of an individual's hearing, as measured by pure tone audiometry, from previous measurement, or where such measurement is not available, from that predicted as normal for his or her age". The Act specifies the matters which a court must regard when deciding a hearing loss case and sets out hearing disability. (*for more information see HSR June 1998 p10*)

Notification of diseases

FA 55, S FA 55, S 76

OFINA 87, S 29

Where a doctor visits a patient suffering from lead, phosphorus diseases, arsenic, mercurial poisoning or anthrax, contracted in a factory, he/she must notify the HSA. The Industrial Medical Adviser should be notified of any prescribed diseases occurring on an off-shore facility. To date none have been prescribed.

Notification of construction works

SI 504/06, Part I, Reg 6 Reg 10,

If work is planned to last longer than 30 working days or scheduled to exceed 500 person days the client must notify the HSA of such particulars as are known about the project supervisors design process and project supervisors construction stage and before the work begins the project supervisor construction stage must notify the Authority.

Nursing mothers/pregnant women

SI 299/07, Part 6, Chapter 2, Regs 1447-152

Employers are required to assess the risks to the safety and health of pregnant/post-natal employees and to take protective measures to ensure health and safety and apply the provisions of Codes of Practice. Pregnant women and nursing mothers shall be provided with facilities to enable them to lie down and rest.

O

SI 392/83 Social Welfare Occupational Injuries (Prescribed Diseases) Regulations 1983

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Occupational diseases

SI 392/83

A number of diseases are known as prescribed occupational diseases. A prescribed occupational disease has been defined as one which has developed owing to the nature of a person's employment. The diseases classified as prescribed occupational diseases are: Bursitis or subcutaneous cellulitis, Byssinosis, Carcinoma of the nasal cavity, Cramp of the hand/forearm, Dysbarism, Pneumoconiosis, Heat cararact, Miner's nystagmus, Diffuse mesothelioma, Sensorineural hearing loss, and Traumatic inflammation of tendons of hand/forearm. These

conditions are described as being caused by physical agents. The following conditions are described as being caused by biological agents: Ankylostomiasis, Anthrax, Glanders, Infection by leptospira, Genus brucella, Streptococcus suis, Extrinsic allergic alevolitis, Tuberculosis, and Viral hepatitis. Chemical agents are the cause of the following: Angigiosarcoma, Osteolysis, Non-cirrhotic portal fibrosis, Carcinoma of nose or lung or skin, Dystrophy of the cornea, Papillomatous or keratotic, Occupational vitiligo, Neoplasm. Listed as miscellaneous conditions are asthma and dermatitis.

For those with a non-medical background who wish to know something of prescribed occupational diseases, a leaflet issued by the Department of Social Welfare (SW 33) provides useful and concise information.

Occupiers' Liability

Occupiers' Liability Act 1995

Occupiers liability legislation is not strictly speaking health and safety law, but many safety professionals find that their duties encompass responsibility for visitors and others who come onto a premises. The law governing the liability of the occupier (who may or may not be the owner of the premises) is set out in the Occupiers' Liability Act 1995.

Those who come onto premises are divided into three categories: visitors, recreational users and trespassers. The visitor is owed a duty of care to ensure that he/she does not suffer injury or damage by reason of any danger existing on the premises. An occupier owes a duty to both recreational users and trespassers not to injure such persons intentionally or to act with reckless disregard for their safety. A visitor or other person who suffers injury may have a right of action for damages against the occupier of the premises. (*see HSR September/October 1997, p15*)

Offences (see also prosecutions and penalties below)

SHWW Act 2005, S 77, S 80

While the HSA has the power to charge employers and others with offences under a wide range of legislation, such as dangerous goods, mines and quarries, construction and off -shore installations legislations, most prosecutions are brought under either the SHWW Act, the General Application Regulations and the Construction Regulations.

The SHWW Act 2005 divides offences into two categories.

Among the less serious offences are failing to discharge duties such as hazard identification and risk assessment, failing to consider representations made by safety representatives, failing to inform a safety representative that an inspector is carrying out an inspection, failing to consult with employees on safety arrangements, failing to allow safety representatives time off to acquire the knowledge and training to perform their duties and the time off to discharge their duties.

Among the offences classified as serious are; failure by an employer to discharge section 8 general duties, provide information, instruction, training and supervision for employees. Other serious offences include obstructing an HSA inspector and recklessly or knowingly making false statements to an HSA inspector.

Where an offence is proved to have been committed with the consent or connivance or can be attributed to any neglect on the part of a director or manager or other officer of the company, that person as well as the company will be guilty of an offence and be liable to be proceeded against. (*See below under prosecutions for details of penalties*)

Off-shore installations: definition

OFFINA 87, S 2

An installation is defined as including any floating structure or device maintained on a station by whatever means. An off-shore installation is used for exploration of minerals and includes the accommodation provided for the persons working on it.

On-the-spot fines

SHWW Act 2005, S 79

While the SHWW Act provides for fixed penalty fines, more commonly known as on-the-spot fines, the provision of the Act will not come into force until the Government introduce regulations prescribing a range of offences. The Act provides that a person on whom a notice specifying such an offence is served, shall pay a fine not exceeding €1,000 within 21 days.

Outdoor Workplaces

SI 299/07, Part 2, Chapter 1, Reg 23

Outdoor workplaces should be protected against weather conditions, falling objects, noise, gas, vapours, slippages or falls.

P

SI 115/91 European Communities (Simple Pressure Vessels) Regulations 1991

SI 13/94 European Communities (Personal Protective Equipment) (Amendment) Regulation, 1994

SI 457/94 European Communities (Personal Protective Equipment) (Amendment) Regulation, 1994

SI 33/96 European Communities (Simple Pressure Vessel) Regulations 1996

SI 89/97 European Communities (Personal Protective Equipment) (Amendment) Regulations 1997

SI 504/06 Safety, Health and Welfare at Work (Construction) Regulations 2006

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Parental Leave

PLA 98

Though an equality measure, parental leave is also a health and safety issue as it is concerned with the well-being of employees. Under the legislation each parent is entitled to 14 weeks unpaid leave for each child, the

leave must be taken before the child is five, although if a child aged between three and eight is adopted, the leave may be taken within two years of the adoption. The leave may be taken in one block or broken up. Leave should be taken by agreement. Employees are entitled to "force majeure" leave, without agreement but must produce a medical certificate. Employers may postpone the leave for six months if it would have a substantial adverse effect on their business. (for more information see HSR July 1998 p14)

Penalties (see offences above and prosecutions below)

Personal Injuries Assessment Board

PIAB Act 2003

PIAB (Amendment) Act 2007

The Personal Injuries Assessment Board Act, though not health and safety legislation, is relevant to how safety practitioners manage one aspect of their work, dealing with accident claims and managing litigation. The Act establishes the Personal Injuries Assessment Board (PIAB), which is expected to commence operations in May. The PIAB has been established as a mechanism for handling non-contentious personal injury claims suffered as a result of an accident or illness contracted at work, or suffered by a member of the public or in a road traffic accident.

If an employee suffers an injury or contracts an illness or if a member of the public suffers an injury or contracts an illness, before that person can institute legal proceedings he/she must submit the claim to the PIAB for assessment. The employer or in the case of a public liability claim the occupier/owner of the premises can notify the PIAB that he/she intends to defend the claim. If the employer or owner of the premises does so, the PIAB will issue an authorization (release) to the claimant, who then has six months within which to issue court proceedings.

Alternatively the claim may be assessed by the PIAB. The PIAB will not consider liability, only assess the appropriate level of compensation due to the injured person. In assessing the level of compensation due the PIAB will calculate the compensation for the injury by reference to a Book of Quantum and will also award other vouched losses (wages, medical expenses). Either party can object to the award. If this happens the PIAB will issue an authorization and the claimant may within six months issue court proceedings.

The PIAB (Amendment) Act 2007 was enacted to provide that person who rejected a PIAB award could only recover costs if a subsequent court award exceeded the PIAB award.

Personal Protective Equipment (PPE)

SI 299/07, Part 2, Chapter 3, Regs 62-67, Schedule 2
SI 13/94, SI 457/94

Every employer who cannot protect workers by avoiding certain Equipment (PPE) tasks or by technical means must provide PPE. The employer must pay the

cost of providing PPE. All PPE should carry an EN marking. It must be suitable for the risks to which the employee is exposed, take account of the conditions of the workplace, ergonomics, the wearer's state of health and it must fit the wearer. The employer must maintain PPE in good condition. It shall normally only be worn by one person. Information about and training in the use of the PPE supplied shall be given.

The Regulations provide that certain PPE shall be worn to protect certain parts of the body. The requirement to wear such PPE is linked to certain work sectors. It should be noted that the listings of areas to be protected, the PPE to be provided and the works sectors are not exhaustive. The areas of the body listed as requiring protection are: the head, feet, eyes and face, ears, the body trunk, arms, legs, skin and the respiratory system.

Head: The head should be protected by helmets, bonnets, berets, and sou'westers. Such PPE may be required to be worn on building sites, in mines, slaughterhouses, ship building, furnaces, boiler plants, steel works and power stations.

Feet: Feet should be protected by safety shoes. Shoes may have to have pierce-proof soles, be insulated, heat resistant, thermal, anti-static, and able to unlace rapidly. They may require to be worn in abattoirs, on scaffolding, when erecting roof frameworks, on building sites, in quarries, mines, ceramic factories, when ship building, and when working with hot or cold materials. Legs should be protected by wearing kneepads.

Eyes: The eyes and the face should be protected by goggles, screens, X-ray goggles, laser-beam goggles, radiation goggles, face shields, arc-welding masks and helmets. Work that involves welding, grinding, caulking, rock work, bolt driving, chiseling, drop forging, acids, liquid sprays, molten substances and radiant heat are amongst the types of work requiring such PPE.

Ears: To protect hearing, protectors such as plugs, muffs and acoustic helmets, should be worn when working with metal presses, pneumatic drills, turbines, pipe-driving work, wood and textile working and by ground staff at airports.

Body: Body, arm and hand protection are linked together and connected to work that involves welding, forging and casting work with acids and caustic solutions, as well as working in abattoirs. It may be necessary to wear fire-resistant clothing, pierce-proof aprons, gloves, mittens, finger stalls, fingerless gloves, wrist protection, protective jackets, waistcoats and body belts.

Skin: Skin may need to be protected when using coating materials or tanning. Barrier creams and ointments should be used.

Lungs: To protect the lungs and respiratory system, it may be necessary to use respirators, including welding masks, dust filters, gas and radioactive dust filters, diving equipment, diving suits and insulating appliances with an air supply. The need may arise when doing container work, working in restricted areas, working on blast furnaces, gas converters, pipe ladles, or in restricted areas such as shafts, sewers, other underground areas or in refrigeration plants.

Premises/Workplace

FA 55, S 36 as amended by SIA 80, S 25
SHWW Act 2005, S 2
SI 504/06, Part 4

SI 299/07, Part 2, Chapter 2, Regs 1-26

Premises are referred to in SI 299/07 as a place of work and in the FA 55 as a factory. The SHWW Act 2005, the Factories Act and the General Application Regulations 2007 cover all workplaces except mines, quarries, construction sites, fishing boats, all means of transport, and fields, woods or land forming part of an agricultural holding.

Both the Act and the Regulations are concerned with the soundness of construction and the maintenance of premises. Floors, passages, steps, gangways, entrances and exits shall be of sound construction, properly maintained, and kept free from substances which might cause a person to slip. Open sided stairs should be railed, openings in floors fenced in, and ladders soundly constructed and maintained. Floors should have no holes, and should not be slippery or have dangerous slopes. Surfaces should be such that they can be cleaned and refurbished easily.

Access to roofs is not permitted unless they are of sufficient strength, or if equipment is provided to make sure work can be carried out safely.

Doors and gates shall be of sufficient number and proper dimensions, and positioned so as to ensure safety.

Loading bays shall be of a dimension suitable for the load to be transported, and shall have at least one exit point. If over a certain height (which is undefined) there should be a second exit point at the other end, if technically feasible. Work areas should be organised to allow for the free movement of pedestrians and traffic. Traffic routes should be identified, and danger areas should be clearly marked.

If there is a danger of a falling object the area should be controlled so as to prevent unauthorised persons entering.

The Construction Regulations set out specific rules for construction sites.

Pressure Equipment: transportable

SI 374/04

Transportable pressure equipment is defined as being a receptacle or tank which is used or intended to be used

for the carriage by road or rail of goods (gases) by and certain other dangerous goods, including valves or other accessories fitted to the equipment and used for carriage. Such equipment must be safe and suitable for its intended use and comply with international agreements concerning the transport of dangerous goods by road and rail.

Pressure Vessels

SI 115/91, SI 33/96

Known as simple pressure vessels, these items must be safe and bear an EN mark.

Prohibition Notice

SHWW Act 2005, S 67

When an inspector is of the opinion that an activity is likely to involve the risk of serious personal injury he/she may serve a prohibition notice. The inspector must state in the notice the reasons why he/she considers the work may cause injury and the breaches of statutory duty alleged.

The person upon whom the notice is served is required to stop the activity either immediately or after the period specified in the notice. An aggrieved party on whom a notice is served may appeal to the District Court within seven days.

Project supervisors

SI 504/06, Part 2,

Building project clients must appoint a project supervisor for both the design process and the construction stage. One person may be appointed for both stages or a different person for each stage. The project supervisor for the design process shall take account of the general principles of prevention and any safety plan and co-ordinate the safety activities of those engaged on work at the design stage. He/she shall prepare a safety plan (if required) specifying a general description of the project, the time it is due to be completed, information on site activities, particular risks, and providing the construction stage supervisor with all necessary information.

The construction stage supervisor shall develop the safety plan before work commences. Where more than one contractor is engaged on the project, he should organise co-operation, co-ordinate the implementation of the general principles of prevention, provide information, and co-ordinate measures to check the implementation of both safety measures and measures aimed at permitting only authorised persons access to the site. He/she shall prepare, maintain and deliver a safety file to the client, and may appoint a competent person to co-ordinate certain duties.

Prosecutions and Penalties (see also offences above)

SHWW Act 2005, S 82, S 78, S 81

Chemicals Act 2008

Where the HSA are of the opinion that an offence has been committed they may prosecute. Usually the prosecution will be in the District Court. However more prosecutions are now being taken in the Circuit

Court. The prosecution may be instituted at any time within one year from the date of the offence. If, however, there has been an inquest, a special report or an inquiry, a prosecution may in the future be brought up to 12 months after the report issued or the inquest concluded.

Charges for less serious offences shall be brought in the District Court by way of summary proceedings and if convicted the person charged shall be fined a sum not exceeding €3,000.

In relation to serious offences, if summary charges are brought in the District Court, a person convicted may be fined up to €3,000 and/or imprisoned for a period not exceeding six months. If charges under the Chemicals Act 2008 are brought in the District Court fines of up to €5,000 may be imposed.

If the charges are brought on indictment in the Circuit Court, a person convicted may be fined up to €3m and/or sentenced to imprisonment for a period not exceeding two years. Similarly the maximum fine under the Chemicals Act 2008 for prosecutions brought in the Circuit Court is €3m.

As is now common in many statutes the onus of proof is shifted on to the defendant. It is up to a person charged with failure to comply with a duty to prove that it was not practicable for him/her/it to do more than was in fact done to satisfy the duty or requirement.

Q

MQA 65

SI 467/97 Safety, Health and Welfare at Work

(Extractive Industries) Regulations 1997

SI 28/08 Quarries Regulations 2008

Quarry: definition

SI 28/08, Reg 3

A quarry is defined as meaning an excavation or a system of excavations aimed at getting minerals or mineral products from the ground, provided it is not from a mine, a well, a bore-hole or a combination of a well and bore-hole.

Quarry owner

SI 28/08, Reg 6

A quarry owner is required to appoint a competent person, who has sufficient resources, to be quarry operator. The appointment must be in writing and signed by both the quarry owner and operator.

Quarry operator

SI 28/08, Regs 7, 8, 9, 10

The quarry operator must be appointed before operations begin. He/she must notify the HSA of his/her appointment and he/she is under a general duty to ensure, in so far as is reasonably practicable, the health and safety of employees and others. The quarry operator must establish a management structure.

Quarry safety statement

SI 299/07, Reg 11

A quarry safety statement must deal with a number of matters specified in regulation 11, including the management structure, operating procedures and instructions, system of permits to work, inspection/maintenance/testing schemes, vehicles/traffic routes, arrangements to prevent explosions and shotfiring. The detail of these requirements is set out in later provisions of the regulations.

R

Mines and Quarries Act 1965

SHWW (Offshore Installations) Act 1987

Railway Safety Act 2005

SI 125/00 Radiological Protection Act 1991 (Ionising Radiation) Order 2000

SI 478/02 European Communities (Medical Ionising Radiation Protection) Regulations 2002

SI 875/05 Radiological Protection Act 1991 (Control of High-Activity Sealed Radioactive Sources) Order 2005

SI 44/93 Safety, Health and Welfare at Work (General Application) Regulations 1993

Radiation

SI 125/00

The regulations provide for the protection of workers and the public from the effects of ionising radiation. Basic safety standards are established. Where organisations (termed in the Euro speak used in the regulations as undertakings) engage in practices (work activity) which might increase exposure to radiation, they shall not undertake the practice unless licensed by the Radiological Protection Institute of Ireland.

When carrying out such a practice the undertaking must ensure that exposure is kept as low as is reasonably practicable. Persons under 18 or pregnant women or nursing mothers must not be engaged in work involving exposure or significant risk. Where there is a possibility of exposure in excess of dose limits arrangements must be made to protect workers.

Undertakings must classify areas, establish safe procedures, classify workers (either as category A or B) and appoint a radiation protection adviser. Training and information must be provided. A category A worker is one who is liable to receive an effective dose greater than 6mSv in a 12 month period or an equivalent dose greater than three-tenths of the dose limits for the lens of an eye, skin, hands, forearms, feet or ankles. A category B worker is an exposed worker who is not classified as a category A worker. Undertakings must provide health surveillance.

Medical exposures for occupational health exposures are not permitted, unless in the opinion of the medical/Dental Councils, after consultation with a medical officer of the HSA, there are special

circumstances pertaining to a particular employment or category of employment which warrant such exposures (SI 125/02).

Radioactive Sources

The Radiological Protection Act 1991 Control of High-Activity Sealed Radioactive Sources Order deals with the protection of workers and the public from radioactive sources.

Railway Safety

The Railway Safety Act 2005 established a new regulatory framework for railway safety. While the Act is concerned with railway safety, certain aspects of the Act have health and safety relevance. The Act requires railways to ensure, in so far as is reasonably practicable, the safety of persons in the operations of their railways. Railway undertakings are required to implement safety management systems and to describe in a document, called a 'safety case', how they manage the safety of all their activities. Another feature of the Act that is similar to the SHWW Act 2005 is the duty on rail workers not to be under the influence of an intoxicant, to such an extent that they expose themselves to danger. Safety practitioners will also be familiar with some of the enforcement procedures introduced by the Act: improvement plans, improvement notices and prohibition notices.

Reasonably Practicable

SHWW Act 205, S 2(6)

The term reasonably practicable is defined in the SHWW Act 2005 as meaning: in relation to the duties of an employer, that an employer has exercised all due care by putting in place the necessary protective and preventative measures, having identified the hazards and assessed the risks to safety and health likely to result in accidents or injury to health at the place of work and where the putting in place of any further measures is grossly disproportionate having regard to the unusual, unforeseeable and exceptional nature of any circumstances or occurrence that may result in an accident at work or injury to health at that place of work.

Records

SI 44/93, Part X, Reg 60

OFFINA 87, S 30

Employers are obliged to keep records of all reportable accidents. The requirement is set out in the Part X of the General Applications Regulations 1993. This part was not repealed when the General Application Regulations 2007 were enacted. The record shall be kept either at the workplace or the employer's principal place of business. Accidents on offshore installations shall be recorded in the installation logbook.

Refuge holes (in mines)

MQA 65, S 41

Vehicles shall not be permitted to run unless refuge holes are provided. They must be kept free from obstruction.

Rest rooms/areas

SI 299/07. Part 2, Chapter 1, Reg 19

Rest rooms and rest areas must be provided where the type of work and the number of workers indicates they are needed. Such rooms should be easily accessible, large enough for the numbers working and be provided with a sufficient number of tables and seats with backs. Non smokers should be protected against tobacco smoke. These regulations do not apply to offices or similar work areas which provide for relaxation during breaks.

Risk assessment

SHWW Act 2005, S19

Risk assessment is considered to be one of the most important factors in ensuring a safe and healthy workplace. The assessment should be in writing, and should include risks which put groups of employees at unusual risk - and although unstated in the legislation, it should not exclude the more common or less unusual risks. It should indicate the protective measures to be taken and the protective equipment to be used.

Roads: construction

SI 504/06, Part 13, Reg 97

New provisions introduced in the Construction Regulations 2006, require road works contractors to provide adequate lighting and guarding, that works are supervised by a competent person and that - though this provision will not come into force until a course has been approved - at least one person at a roadworks site holds a CSCS registration card.

Roads/traffic routes: mines

MQA 65, Ss 36, 37, 38

Roads shall be made in so far as possible to avoid sudden changes of direction, height, width and gradient. If a shaft is used by six or more persons, roads shall be kept free from obstruction. Where more than 10 people use a shaft, roads shall be not less than 5 feet 6 inches high. Vehicles shall not be permitted to run on any road where they or their load rub against the side of the road or anything supporting it. Traffic routes, which include stairs, fixed ladders, loading bays and ramps, should be clearly identified, with safe means of access and egress provided. In the event of an emergency and employee should be able to escape quickly and safely.

Road transport workers' hours (see Working Time)

S

SI 385/39 Cellulose Solutions Regulations 1939

SI 174/56 Factories (Preparation of Steam Boilers for Examination) Regulations

SI 183/56 Factories (Report of Examination of Steam Boilers) Regulations

SI 184/56 Factories (Report of Examination of Steam Receivers) Regulations

SI 358/78 Factories (Report of Examination of Steam Receivers) (Amendment) Regulations

SI 359/79 Factories (Report of Examination of Steam Boilers) (Amendment) Regulations

SI 311/79 Dangerous Substances (Retail and Private Petroleum Stores) Regulations

SI 312/79 Dangerous Substances (Oil Jetties) Regulations

SI 313/79 Dangerous Substances (Petroleum Bulk Stores) Regulations

SI 314/79 Dangerous Substances (Conveyance of Petroleum by Road) Regulations

SI 481/01 Safety, Health and Welfare at Work (Construction) Regulations 2001

SI 587/01 Fishing Vessels (Basic Safety Training) Regulations 2001

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

SI 299/07 Safety, Health, and Welfare at Work (General Application) (Safety Signs) Regulations 1995

Safety Representatives

SHWW Act 2005, S 25

SI 504/06, Part 2: Reg 23, Part 3, Reg 28

Employers have a duty to consult with their employees about safety matters. Employees have the right to appoint from amongst their number a person to represent them in such consultations. This person is called a safety representative.

The safety representative has a right to safety information, to make safety representations and to investigate accidents, dangerous occurrences, potential hazards and complaints made by an employee. He/she must be informed if a HSA inspector enters the workplace and he/she may accompany an inspector on a tour of inspection unless the inspector is investigating an accident.

If a safety representative makes representations, the employer must consider them and if necessary act upon them. Safety representatives must be given time without loss of remuneration, both to discharge their duties and to acquire the knowledge to do so, and they shall not be placed at any disadvantage as regards their employment.

There are additional rules regarding the selection of safety representatives on construction sites. Where more than 20 people are employed on a site a safety representative must be elected or appointed. These safety representatives, known as site safety representatives, are entitled to information, to make representations, to carry out inspections and to time off work, without loss of remuneration, for training. These requirements were first enacted in 2001 (*see HSR December 2001, p16*) and re-enacted in the Construction Regulations 2006. At various stages of a construction project supervisors and contractors are obliged to consult with safety representatives (*see Consultation above*).

Safety Statement

SHWW Act 2005, S 20

Employers are required to have a safety statement. The safety statement should be brought to employees' attention on commencement of employment, following

any amendments and at least annually and it should be brought to the attention of other people at the place of work who may be exposed to risks to which it applies.

Employers are required, as under the 1989 Act, to prepare a safety statement, which should be based on the hazard identification and risks assessment process and which should specify the manner in which employees' health and safety is to be secured and managed. Where there are specific tasks that pose a serious risk, the employer should bring the relevant extracts - identifying the risk, giving the assessment and setting out the protective/prevention measures taken - in the safety statement to the attention of those affected.

The safety statement should set out the protective and preventive measures taken and the resources provided to protect employees' health and safety. It should include details of the plans and procedures to be followed in the event of an emergency or serious and imminent danger. Also it should set out the duties of employees and names and job titles (if applicable) of persons with health and safety responsibilities.

If an employer contracts with another employer to provide services, that employer shall be required to provide the employer providing the services to be in possession of an up-to-date safety statement.

If there is a code of practice for a type of work activity, an employer who employs three or fewer people and is engaged in that type of activity need not have a safety statement and shall be deemed to be compliant if he/she observes the code.

Seating

SI 299/07, Part 2, Chapter 1, Reg 18

This innocuously titled SI contains provisions relating to cleanliness, drinking water, meals facilities and seating. It requires employers to provide employees with reasonable opportunities for sitting where this can be done without detriment to their work, or where a substantial proportion of the work can be done while sitting.

Safety training

SHWW Act 2005, S 10

Employees must be trained upon commencing employment and training, instruction and supervision must be in a form, manner and language that employees are reasonably likely to understand. Training, instruction and information should be task specific and should cover emergency measures. In relation to any specific task the employee's capabilities in relation to health and safety should be taken into account.

As well as receiving training on recruitment employees should receive training if transferred or assigned to other tasks and on the introduction of new work equipment/technology and systems of work or if there

are changes to current systems or equipment/technology.

Training should be provided during working hours and without loss of remuneration.

Fixed-term and temporary employees must receive training for the work they are required to carry out. When deciding on the training required the employer must have regard to the fixed-term/temporary employee's qualifications and experience. Employers should also ensure that the employees of others who are at the place of work receive instructions on the health and safety risks at the place of work.

With the enactment of the Construction Regulations 2001 and the Fishing Vessels Training Regulations 2001, all new workers on construction sites and on fishing vessels, were from January 1st and March 1st respectively have to have received, in respect of construction FAS Safe Pass Training, and in respect of fishing basic safety training, which is provided by BIM. (see *HSR December 2001 p18 for more information on construction training and HSR January/February 2002 p17 for more information on basic fishing vessel training*). The Construction (Amendment) Regulations 2003, were enacted to allow new starters in a range of specified occupations (advanced scaffolding, slinging/signaling, telescopic handling, tractor/dozer, mobile crane, crawler crane, articulated dumper and site dumper operations, as well as built up roof felting work) to gain work experience, before starting a FAS construction skills certification course. These provisions have been re-enacted in the Construction Regulations 2006, with the number of the number of construction skills certification scheme training programmes increased by including signing, lighting and guarding on roadworks, shotfiring, underground services, mini-diggers, mobile tower crane and self-erecting tower crane operations.

Sanitation

SI 299/07, Part 2, Chapter 1, Reg 20

SI 504/06, Part 14, Regs 98-105

The General Application Regulations provide that separate facilities for men and women, with an adequate number of lavatories and washhand basins, shall be provided near workstations, rest rooms and changing rooms.

Changing rooms shall be provided for employees who have to wear special work clothes, and where for reasons of propriety or health they cannot be expected to change in another room. Changing rooms should be large enough for the numbers using them. Each employee should be able to lock away clothes, separating work clothes from ordinary clothes if necessary. Even if a changing room is not required, a place to store clothes must be provided.

If the nature of the work or health reasons require it, an adequate number of showers with hot and cold water shall be provided. Shower rooms should be large enough for hygiene purposes. There should be separate

shower rooms for men and women, but if this is not possible they should be used separately.

Specific rules in relation to construction sites are set out in the Construction Regulations 2006.

Scaffolding

SI 299/07, Part 4, Reg 94,

A scaffold is defined as any temporary structure, whether fixed, suspended or mobile, which is used for supporting workers or materials to gain access to a structure. The definition extends to include working platforms, stages, gangways, runways, ladders or step-ladders, which are part of the access structure. Scaffolding must be erected if work cannot be done safely from the ground, from a building or other permanent structure. Scaffolds may only be erected by trained personnel under the supervision of a competent person. Scaffolds shall be constructed with sound, suitable and sufficient material of adequate strength. They shall be kept in good repair, and uprights should if practical be vertical or slightly inclined towards the building, and be on a base plate that will prevent slipping. Ledgers shall be as horizontal as possible and putlogs shall be securely fastened to uprights. Scaffolds shall be erected on a firm base. Loads on scaffolds should be evenly distributed and a scaffold should not be overloaded. Safety nets may be required.

The Code of Practice for Access and Working Scaffolds is a quasi legal document. Failure to observe the code is not an offence and does not render the person failing to comply with it liable to civil or criminal proceedings, but the failure may be used in evidence in a health and safety prosecution. The code provides guidance on the control of scaffolding, its erection, inspection and hand-over, maintenance and use, and on dismantling. The requirements for being regarded as a competent scaffolder are elaborated upon and essentially require that scaffolders are trained to FAS approved standards.

Shiftwork (see N: nightwork)

Shipping: medical equipment/supplies

SI 506/97

The regulations set the standards for medical equipment to be carried on board three classes of vessels, A, B, and C. Class A vessels are sea-going or sea-fishing ships that have no limitation on the length of trip. Class B vessels are similar, but would only make trips of 150 nautical miles from the nearest port with adequate medical equipment and be less than 175 nautical miles from such a port provided the vessel remains continuously within range of helicopter services. Class C vessels are vessels that will stay within 30 nautical miles of the shore.

The owners of vessels are required to ensure that: the quantities of medical supplies required for the class of vessel are on board; lifeboats/rafts are provided with a waterproof medicine chest; if the vessel is over 500 tonnes in weight or has a crew of 15 or more board it is

equipped with a sickbay; if it has a crew of 100 or more and is on a journey of more than three days there is a doctor on board; an appropriate antidote is available if a dangerous substance is being carried; and that the most recent guides to the use of medicines, medical equipment and antidotes are on board.

The captain of the vessel must ensure that medical supplies are correctly stored, maintained and replenished if necessary. The captain must keep a checklist of medical supplies and if during an emergency additional medical supplies are on medical advice deemed necessary, the captain must obtain them as soon as possible.

The medical supplies required on the different classes of vessels are listed in schedules to the regulations.

Signs

SI 299/07, Part 7, Chapter 1, Regs 158-162, Schedule 9

Unusually for a statutory instrument, this particular provision is well illustrated, with drawings of the safety signs that are to be used set out in the schedule. Safety signs are to be used wherever a risk cannot be controlled by other means. Signs may be in the form of a signboard, which may be coloured and/or illuminated, acoustic, verbal or by hand signal. The colour coding for signs is: red - for prohibition, danger, fire-fighting equipment; yellow/amber - for warning; green - for emergency escape, first aid and no danger; or blue - mandatory about PPE, actions, behaviour.

Places where there is a risk of falling or of colliding shall be permanently marked by signs, as shall traffic routes. Illuminated signs, acoustic signs, hand signals and verbal communications shall be used as the occasion requires. Two acoustic signs shall not be used at the same time nor shall such a signal be used if there is too much ambient noise.

The regulations prescribe the size, shape and colour of signs. From January 2011 onwards words may not be used on signs and all new signs now being erected should not include words.

Signals: mines

MQA 65, S 46, 47

Effective means of transmitting mines, quarries, adequate and visible signals shall be maintained in mineshafts and unwalkable outlets.

Slippery floors

FA55, Ss 15, 16

Where work renders a floor slippery, some means of drainage to prevent slipping shall be provided. Where floors become so wet that water could be drained away, a means shall be provided to do so. Washrooms, workrooms and sanitary conveniences shall be constructed so as to exclude rain or outside damp.

Smoking

Public Health (Tobacco) (Amendment) Act 2004

The ban on smoking in specified (the word used in the legislation rather than enclosed, which is the word used

in guidance documents) workplaces was enacted as section 16 of the Public Health (Tobacco) (Amendment) Act 2004, but the legal reference to the ban is to section 47 of the Public Health (Tobacco) Act 2002, which was amended by section 16.

The Act provides that smoking is banned specified places. The specified places are:

- a place of work (as defined in the SHWW Act 1989), but which effectively means an enclosed place of work, with certain exemptions (see list below)
- aircraft, trains, ships/vessels, public service vehicles and taxis/hackney cars, in so far as they are places of work
- health premises and hospitals, in so far as they are places of work (note exceptions below)
- schools and colleges and buildings belonging to the state (note exceptions below)
- cinemas, theatres, concert halls and places of public entertainment, in so far as they are places of work
- licensed premises and registered clubs, in so far as they are places of work.

The ban does not apply to:

- dwellings
- prisons
- roofless premises
- outdoor parts of a place or premises covered by a fixed or moveable roof, provided that not more than 50% of the perimeter of that part is surrounded by one or more walls or similar structures (inclusive of windows, doors, gates or other means of access to or egress from that part)
- bedrooms in hotels, guest houses and other premises that are in the business of providing sleeping accommodation to the public
- rooms in premises used solely for living accommodation, when the rooms are provided in furtherance of charitable or educational objectives
- nursing homes, hospices, psychiatric hospitals and the Central Mental Hospital.

The smoking ban applies to a place of work as defined by the SHWW Act 1989, section 2. The Act defines a place of work as including any place, land or location where work is carried out and in particular includes a premises, on-shore and off-shore installations to which the SWWW (Offshore Installations) Act 1987 applies, tents, temporary and movable structures and vehicles, vessels and aircraft. Interestingly the SHWW Act 2005 does not mention the smoking ban as applying to places of work as defined by the 2005 Act. The SHWW Act 1989 has been repealed.

Similarly the rules regarding the display of signs were introduced by section 15 of the Public Health (Tobacco) (Amendment) Act 2004, which repealed and replaced section 46 of the Public Health (Tobacco) Act 2002. Section 46 (to find read section 15 of the 2004 Act) provides that signs stating smoking is prohibited, shall be displayed in premises (or parts of premises) to which members of the public have access. The signs

shall display the name of the occupier or other person in charge of the premises and the name of person to whom a member of the public, who observes another smoking, may make a complaint.

The 2002 Act is amended (section 5 as amended by section 3 of the 2004 Act) to provide that a person who fails to implement the ban on smoking in enclosed workplaces or to display a sign prohibiting smoking may be fined up to €3,000.

The ban on smoking is enforced, as regards workplaces by HSA inspectors and as regards hotels and pubs by environmental health officers.

Steam boilers

FA 55, S 40, amended by SIA S 31, SI 174/56, SI 183/56, SI 359/78

Steam boilers shall be of good construction, sound materials, adequate strength, and free from patent defect. Safety valves, stop valves and gauges shall be fitted. At least one transparent water gauge shall be fitted. Before a person shall enter a steam boiler which is in a range of two or more, inlets shall be disconnected and valves closed. Boilers shall be inspected by a competent person once every 14 months or after extensive repairs. A steam boiler shall not be taken into use until a certificate is received from the manufacturer, or other competent person, specifying the maximum permissible working pressure and the nature of the tests to which the boiler was submitted. A copy should be sent to the HSA within 28 days. The examination of a boiler is a two-fold process. The first examination should take place when the boiler is cold and the second should happen as soon as possible under pressure.

Steam Receivers

FA 55, S 41, S 32, SI 184/56, SI 358/78

A steam receiver which is not capable of safely withstanding the maximum working pressure of a boiler shall be fitted with a reducing valve, a safety valve, a pressure gauge and a stop valve. Receivers shall be of good construction, sound material, adequate strength, and free from patent defects. Receivers should be examined every 26 months by a competent person and a report of the examination should be entered in the general register.

Storage Bins: mines

MQA 65, S 81

No person shall enter a storage bin or a trapper unless another person is in attendance. Lift lines shall be provided if necessary.

Storage, substances: offshore

OFFINA 87, S21

Gas, substances, preparations which are corrosive, oxidising, toxic, flammable, radioactive or explosive, shall be stored in a safe place, which shall be as far distant as possible from hazardous areas and

accommodation. Storage containers shall be clearly marked and under the control of a responsible person.

Support: mines

MQA, Ss 49, 50, 51, 52, 53, 54, 55

Every manager of a mine shall ensure that the roof and sides are supported so as to ensure the roads and working places are kept clear. An inspector can require a manager to improve a support system. Managers shall make support rules for mines and deputies shall see that they are implemented. Inspectors may require them to be modified.

T

SI 392/86 European Communities (Road Transport) Regulations 1986

SI 393/86 European Communities (Road Transport) (Recording Equipment) Regulations 1986.

SI 138/87 European Communities (Road Transport) (Exemption) Regulations 1987

SI 85/87 Mines (Safety Training) Regulations 1987

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

Tachographs

SI 392/86

SI 393/86

SI 138/87

A tachograph should be installed in most goods vehicles having an unladen weight of 1.5 tonnes, or any passenger bus seating 17 or over. Driving is restricted to 9 hours per day although on two days per week a driver may drive a maximum of 10 hours per day. A break must be taken after four and a half-hours. The break must be for 45 minutes, although this period may be broken up throughout the four and a half hours.

Temperature

FA55, Ss 15, 16

SI 299/07, Part 2, Chapter 1, Reg 7

The General Application Regulations marked the adoption of a more prescriptive approach to the rules regarding room temperature in workplaces. During working hours temperature should be appropriate, having regard to the working methods being used and the physical demands on employees. For sedentary office work the minimum temperature after one hour should be 17.5 degrees centigrade and for other sedentary work it should be 16 degrees. Where, due to process requirements, a temperature of below 16 degrees is necessary the employer must assess the risks and take measures to ensure the safety, health and welfare of employees.

Temporary Employees

SHWW Act 2005, s2, s8(4)

Many businesses use temporary employees. A temporary employee is defined as an employee in a temporary employment business, where the employee is assigned to work for another. A temporary employment business is one which provides temporary employees to other businesses. An employer who uses

the services of such a temporary employee owes that temporary employee the same duty of care as if he/she was a direct employee.

Traffic routes (movement of pedestrians and vehicles)

SI 299/07, Part 2, Chapter 1, Reg 14

Workplaces must be safe for people to move about in. Traffic routes can include stairs, fixed ladders, loading bays and ramps, as well as areas along which people may walk or vehicles may move. Routes for pedestrian traffic or goods should be of such dimensions that people and vehicles can move safely - and both outdoor and indoor places of work should be organised to allow for this. Outdoor workplaces shall be lit by artificial light when daylight is not adequate.

Training (see Safety Training)

Training: mines and quarries

MQA 65, S 84, SI 85/87

Employees must be trained so as to be competent to do MQA 65, S 84, SI 85/87 the job required. Employees who are not competent under this definition must be under the supervision or instruction of a competent person.

Transport: construction

SI 504/06, Part 11, Regs 87-92

On all construction sites on which transport vehicles are used, safe and suitable access shall be provided and traffic shall be organised so as to secure operational safety.

Transport: mines

MQA 65, S 39

The manager of every mine shall make transport rules setting out maximum loads, the number of vehicles that can be linked and maximum speeds. An inspector can require the rules to be amended.

V

SI 467/97 Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997

SI 288/07 Carriage of Dangerous Goods by Road Regulations 2007

SI 299/07 Safety, Health and Welfare at Work (General Application) Regulations 2007

SI 299/07 Safety, Health and Welfare at Work (General Application) (Control of Vibration at Work) Regulations 2007

Vehicles - ADR

SI 288/07

A number of interim regulations, adopting as Irish national the ADR agreement and governing the carriage of dangerous goods by road, were repealed with the enactment of the Carriage of Dangerous Goods by Road Regulations 2001. The 2001 Regulations re-enact the provisions of the revoke

regulations and are based on the ADR agreement (see Dangerous Goods: transport by road).

Ventilation

SI 299/07, Part 2, Chapter 1, Reg 6

Systems of ventilation for enclosed places of work shall ensure that there is sufficient fresh air, having regard to the working and physical demands on employees. A fixed ventilation system shall be maintained in working order and any defect likely to cause a danger to health shall be removed. Break areas shall be indicated and air conditioning or mechanical ventilation systems should not cause employees discomfort from draughts. Deposits or dirt that create an immediate danger must be removed without delay.

Ventilation: mines

MQA 65, Ss 56-61

SI 467/97, Schs 1(6), 2(2)

Every mine manager shall ensure that constant ventilation is produced so as to dilute gases that are inflammable or noxious and to provide air containing sufficient oxygen. The amount of oxygen in the general body of air shall not be less than 19% by volume. Access shall be restricted in any area of a mine where ventilation is inadequate or interrupted. Where natural means do not produce sufficient ventilation, mechanical means shall be used. There should be sufficient fresh air in enclosed workplaces. Forced ventilation systems should be maintained in working order and the control system should indicate breakdowns.

Vibration

SI 299/07, Part 5, Chapter 2, Regs 133-142

As a result of the enactment of the Vibration Regulations, which are concerned with both hand-arm and whole-body vibration, employers are required to assess the risk of vibration to employees, decide if they are likely to be exposed to levels above the daily action limits and if they are to put in place a programme of controls to eliminate the risk or at least reduce it to the lowest level reasonably practicable, decide if employees are likely to be exposed above the daily limit value and if they are to take immediate action to reduce exposure below the limit value, to consult with employees and/or their representatives and to provide information and training on health risks and controls and to review and update risk assessments regularly and to keep a record of risks assessments.

The Vibration Regulations set exposure action and exposure limit values in respect of both hand-arm and whole body vibration. For hand-arm vibration the daily exposure limit value standardised to an eight-hour reference period shall be 5m/s^2 and the daily exposure action value standardised to an eight-hour reference period shall be 2.5m/s^2 . For whole-body vibration the daily exposure limit value standardised to an eight-hour reference period shall be 1.15m/s^2 . The daily exposure action value standardised to an eight-hour reference period shall be 0.5m/s^2 .

Employers are required to carry out a risk assessment. The risk assessment must be carried competently, which effectively means it must be carried out by a competent person. The risk assessment findings must be recorded and if required measures must be taken to comply with the regulations. Employers are required to make health surveillance available and to keep a record of any employee who undergoes health surveillance. *(For a more detailed summary of the regulations, see HSR September 2006, p25. Note the regulations enacted in 2006 were repealed and re-enacted by the General Application Regulations 2007)*

Visual Display Units (Display Screen Equipment)

SI 299/07, Part 2, Chapter 5, Regs 70-73

Visual Display Units (VDUs) are in Eurospeak (and consequently in Irish national legislation) called Display Screen Equipment (DSE). The definition of DSE is comprehensive in that the Regulations cover not only the Display Screen/VDU or computer but also the workstation, which is defined as including all that clutter of things or (as the Regulations word it) the assembly that goes with computers: screens, keyboards, diskette drives, phones, modems, printers, work chairs, desks, document holders, the work surface and the immediate working environment.

The Regulations also make it clear that certain equipment is not covered, such as typewriters, computer systems on board a means of transport, computer systems for public use, calculators and cash registers, and portable DSE not in prolonged use at a workstation. The last exclusion raises intriguing questions about lap-tops and notebooks.

The Regulations impose a number of duties on employers. Workstations must be analysed in order to evaluate health and safety considerations and risks, particularly as to eyesight, physical problems or mental stress. Risks found must be remedied. Work must be organised so as to ensure break periods or changes of activity, and employers must provide information and training.

Every employer shall ensure that an appropriate eye and eyesight test is made available to every employee and carried out by a competent person. This should be done before commencing VDU work, at regular intervals thereafter, and if the employee experiences visual difficulties which may be due to VDU work. If the tests show that an ophthalmologic examination is necessary, it shall be provided. If the tests show that corrective or special corrective appliances are needed, the employer must provide them.

Display screens must have characters that are well defined and of an adequate size. The image on the screen must be adjustable and the screen must be free of glare and reflection. It must swivel and tilt and it should be possible to use a separate base or an adjustable table on which to place the screen. Keyboards must have a matt surface, a layout that facilitates use, symbols that are legible and it shall be

tiltable and separate from the screen, with space in front to support the user's hands and arms.

Work desks or surfaces shall be large enough to allow flexible arrangements of equipment and documents and document holders shall be adjustable and positioned to minimise the need for uncomfortable head and eye movements. Work chairs must be stable, adjustable in height and have a seat back that is adjustable in height and tilt. A user who requires a foot rest must be provided with one. The work environment must be designed so as to control reflections, glare, noise, heat and humidity. Radiation must be reduced to negligible levels.

The interface between the employee and the computer shall apply principles which ensure that the software used is suitable for the task, adaptable to the employee's level of knowledge, able to provide employees with feedback on their performance and display information at a pace adaptable to the employee. The principles of software ergonomics shall apply. The software may not incorporate a checking for quality or quantity that may be used without the employees knowledge.

W, Y

SI 165/56 Factories (Certificate of Fitness for Young Persons) Regulations 1956
SI 1/97 Protection of Young Persons (Employment) (Exclusion in the Fishing or Shipping Sectors) Regulations 1997
SI 2/97 Protection of Young Persons (Employment of Close Relatives) Regulations 1997
SI 3/97 Protection of Young Persons (Employment) (Prescribed Abstract) Regulations 1997
SI 392/97 Organisation of Working Time Act (Commencement) Order 1997
SI 20/98 Organisation of Working Time (Exemptions of Transport Activities) Regulations 1998
SI 21/98 Organisation of Working Time (General Exemption) Regulations 1998
SI 44/98 Organisation of Working Time (Code of Practice on Compensatory Rest and Related Matters) (Declaration) Order 1998
SI 49/98 Organisation of Working Time (Additional Information) Order 1998
SI 52/98 Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998
SI 57/98 Organisation of Working Time (Breaks at Work for Shop Employees) Regulations 1998
SI 188/01 Safety, Health and Welfare at Work (General Application) (Regulations) 2001
SI 473/01 Organisation of Working Time (Records) (Prescribed Form and Exemption) Regulations 2001
SI 350/01 Protection of Young Persons (Employment in Licensed Premises) Regulations 2001
SI 351/01 Protection of Young Persons (Employment) Act 1996 (Bar Apprentices) Regulations 2001
SI 532/03 European Communities (Merchant Shipping) (Organisation of Working Time) Regulations 2003

SI 494/04 European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004
SI 817/04 Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004
SI 819/04 Organisation of Working Time (Inclusion of Offshore Work) Regulations 2004
SI 2/05 European Communities (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2005
SI 88/06 European Communities (Road Transport) Regulations 2006
SI 89/06 European Communities (Road Transport) (Recording Equipment) Regulations 2006
SI 299/07 Safety, Health and Welfare at Work (General Application) (Work at Height) Regulations 2007
SI 299/07 Safety, Health and Welfare at Work (General Application) (Night Work and Shift Work) Regulations 2007
SI 299/07 Safety, Health and Welfare at Work (General Application) (Protection of Young Persons and Children) Regulations 2007

Water, drowning: construction

SI 504/06, Part 10, Regs 85, 86
If there is a risk on a construction site that a person could fall into water and drown, then suitable rescue equipment must be provided and kept ready. Also, fencing should be erected in order to prevent such a fall. If a person is transported to work on water, the method of transport provided should be safe.

Washing facilities: factories

FA 55, S 53(1)
In this day and age the term 'washing facilities' may seem dated, but when a number of the older statutory provisions were repealed, this sub-section of the '55 Act was not, for some reason or other. It provides that adequate and suitable washing facilities - including soap and clean towels or other suitable means of cleaning and drying - shall be conveniently accessible and kept in a clean and orderly condition. The section should be read in conjunction with the provisions regarding sanitation provided for in SI 44/93 (see sanitation above).

Welfare: mines

MQA 65, Ss 87, 88, 89, 90
The sections dealing with welfare for mine workers are concerned with sanitary conveniences, drinking water and protection against vermin and insects. Sanitary conveniences shall be provided, kept clean, properly maintained and lighted, and they should afford adequate accommodation for men and women. Adequate supplies of drinking water should be supplied and maintained. All parts of a mine that are below ground should be kept free of rats and mice.

Weights: mines

MQA 65, S 86
No person shall be employed to lift, carry or move a load that is so heavy that it is likely to cause injury.

Work Equipment

SI 299/07, Part 2, Chapter 2, Regs 27-41 (For Lifting Equipment see Lifting above)

Employers are under a duty to ensure work equipment is suitable use of or properly adapted for the work to be carried out, so that it may be used without risk to employee's health and safety. In selecting work equipment, employers must take account of the work conditions and the hazards of the workplace. If the risk cannot be eliminated it must be minimised. Employees must be instructed in the safe use of equipment and be given such information as is necessary to use it safely. If the equipment presents a specific risk, its use should be restricted to those employees required to use it - and where repairs and/or maintenance work are being carried out, only competent people should carry out such work. Information and instructions should be understandable.

Control devices must be visible and identifiable and if possible located outside danger areas. Ideally it should be possible to ensure nobody is in a danger area, but if this is impracticable audible or visible warning signs should operate whenever machinery is about to start. An exposed employee should be able to avoid the hazard by either starting or stopping the equipment. All equipment and work stations should be fitted with stop controls. Where there is a risk of physical contact, guards and protection devices should be fitted. It should be possible to isolate equipment from its energy sources.

Warning devices should be clear and easily understood. When maintenance work is being carried out, the equipment should - if possible - be shut down. If this is not possible, the work should be carried on outside the danger area or protection measures should be taken.

If there is a maintenance log it should be kept up to date. Account should be taken of risks such as falling, projecting, heat and cold, dust, gas, vapours, liquids or fumes and the risks of overheating, fire or explosion.

Employees must be made aware of health and safety risks. Also post installation inspections and inspections before use must be carried out. If equipment is exposed to conditions which may cause deterioration inspections are required. The results of inspections must be recorded and kept for five years. Inspections must be carried out by competent persons.

Work at Heights

SI 299/07, Part 4, Regs 94-119

The new Work at Height Regulations, which originally became law during 2006 and were re-enacted in the General Application Regulations 2007, radically altered the law relating to work at heights. For one thing, work at height regulations are no longer confined to construction, but apply to all sectors. The second key point is that the old two meter rule has been abolished.

Work at height is defined in the regulations as meaning:

“work in any place, including a place: (a) in the course of obtaining access to or egress from any place, except a staircase in a permanent place of work; or (b) at or below ground from which, if measures required by these Regulations were not taken, an employee could fall a distance liable to cause personal injury, and any reference to carrying out work at height includes obtaining access to or egress from such place while at work.

The regulations require employers to avoid risks from work at heights, by not carrying out work at height unless it is reasonably safe to do so. Also employers must take account of weather conditions and fragile surfaces. They must also take steps to prevent objects falling. The regulations set out requirements regarding the selection and inspection of work equipment. (*For a detailed summary of the regulations, see HSR July/August 2006, p13*)

Workplaces (see premises above)

Working Time

MQA 65, S 113, RTA 61, S 114,
SI 393/86, SI 473/01, SI 532/03, SI 494/04, SI 817/04,
SI 819/04, SI 02/05 , SI 88/06, SI 89/06

There are those who question whether working time is a health and safety issue. It is. The matter was put beyond any doubt by the European Court of Justice, who rejected the arguments of the British Government that the Organisation of Working Time Directive could not be considered a health and safety measure. The Working Time legislation, which was enacted in Ireland by the Organisation of Working Time Act 1997 and subsequent regulations can be considered under three headings: holidays, hours, and specific safety regulations. More recent regulations (SI 503/03) specify minimum rest periods for seafarers in the merchant shipping sector. Still more recent regulations (SI 494/04) deal with the contentious issue of junior doctors' (doctors in training) working hours, transport workers (SI 817/04) and off-shore workers (SI 819/04). And regulations enacted in 2006 specify road transport workers' hours and provide for the introduction of digital tachographs.

Holidays

Since September 20th 1999 employees are entitled to 20 days annual leave. Regular part-time employees are entitled to annual leave at the rate of six hours for every 100 hours worked or proportionally less where fewer hours are worked. Employees are entitled to nine public holidays a year.

Hours

The Act imposes a maximum average working week. The average is worked out over periods of time known as "reference periods". The working week is an averaged working week, average over a four month reference period, or in certain sectors over a six months period. The sectors are security, health,

communications, utilities, agriculture, tourism, postal services, prisons, airports/docks, industries where production cannot be interrupted on technical grounds and where research and development activities are being carried on. The reference period can be extended to 12 months by a collective agreement between employers and employee representatives.

Since March 1st 2000 a worker must not work more than an average maximum of 48 hours a week. Working time does not include break periods but does include time when the employee is on-call but may not actually be working.

As well as the limit on the hours an employee may work, employees are entitled to weekly and daily rest periods. Employees are entitled to a weekly consecutive rest period of 35 hours and a daily rest period of 11 hours in any 24 hour work period. During the working period employees are entitled to a 15 minute break after four hours and to a 30 minute break during a six hour work period. The break periods are not cumulative. Shop workers, whose hours of work include the period from 11.30am to 2.30pm are after six hours work entitled to a one-hour lunch break during those hours. Shop workers.

There are particular limits on the hours a night worker can work (see definition of night worker below). Night work shall not exceed eight hours a night on average over a two-month period and if the night worker is one whose job involves special hazards or heavy physical strain, the working period shall not exceed eight hours in any 24 hour period.

Road transport workers

Apart from the restrictions on working time imposed by the Working Time Act and regulations, the hours drivers of lorries can work are regulated by the Road Transport Act. Drivers of transport lorries and the like must not drive for more than 11 hours in a 24 hour period. Continuous driving is limited to five and a half hours. Drivers must have 10 hours consecutive rest.

In January 2006 regulations limiting the hours mobile road transport workers may work to an average of 48 per week, with a maximum of 60 hours in any one week and 10 hours in any 24 hour period became law. The reference period for the average 48 hour week is set at 17 weeks, but may be extended to six months. The regulations limit the period of continuous work that can be done before taking a break and the amount of work that can be done at night. Night is defined as being between midnight and 4am.

Further regulations, also introduced in 2006, which apply to drivers and crews of vehicles exceeding 3.5 tonnes in weight, provide that daily driving periods should not exceed nine hours though it may twice in one week be extended to 10 hours. After no more than six daily driving periods a driver must take a weekly rest period. This should normally be 45 consecutive hours but may be reduced to 36 consecutive hours if

taken at a place where the vehicle or driver is based or 24 consecutive hours if taken elsewhere. Where rest periods are reduced compensatory rest must be given within three weeks. The total period of driving in a fortnight must not exceed 90 hours. The daily rest period may be taken in a vehicle, provided it is stationary and fitted with a bunk. And after four-and-a-half hours' driving, a driver should take a 45 minute break. This may be replaced with a series of 15 minute breaks distributed over the driving period or immediately after the period. In each 24 hour period drivers are entitled to daily rest periods of at least 11 hours, which may be reduced to a minimum of nine consecutive hours not more than three times in a week, on condition that compensatory rest is granted before the end of the following week.

The additional duties in relation to tachographs require employers to comply with are: to fit tachographs to such vehicles; to supply drivers with sufficient paper for recording purposes; to keep records; and to give drivers copies of records if requested.

Seafarers

The hours seafarers can work are controlled by regulations introduced in 2003. Seafarers are entitled to minimum rest periods of not less than 10 hours in any 24 hour period and 72 hours in a seven day period. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length. The interval between the consecutive rest periods shall not exceed 14 hours.

Doctors

Currently junior doctors working hours are limited to an average of 58 hours per week (a seven day working period). From July 1st 2007 that will fall to 56 hours per week and to 48 hours per week from August 1st 2009 onwards. Currently the hours are calculated in relation to a three year reference period but from August 1st 2006 that period has been reduced to six months. However the reference period may be extended for up to 12 months by collective agreement. Junior doctors are entitled to daily and weekly rest periods, which while broadly similar to the Working Time Regulations rest periods, provide that employers may vary the rest periods. (*For a detailed report on junior doctors working hours see HSR, September 2004, p13*)

Regulations limiting the working time of transport workers and off-shore workers to an average 48 hours per week over a 12 month period were enacted towards the end of 2004. (*For more detail see HSR, January/February 2005, p22*).

Safety regulations

Special protection is afforded to night and shift workers. Night work is defined as work between midnight and 7am. A night worker is one who normally works at least three hours of his/her time during those hours and for whom the number of hours worked during the night is 50% or more of the annual time worked. Employers are required to: carry out

assessments of the health and safety risks that attach to the work that night workers and shift workers do to see if it involves special hazards or heavy physical or mental strain; to make medical checks available before work commences and regularly while the person is doing night work, the assessment to be carried out by a medical practitioner or somebody operating under a medical practitioner's supervision; and if the employee becomes ill or exhibits symptoms of ill-health connected with the work, to transfer the employee to day work to day work for which he/she is suited. The question of availability of day work may arise and will have to be dealt with on a case by case basis.

To what workers do the regulations apply? To all employees except those who: determine their own time; who are engaged in the fishing industry; work at sea; trainee doctors; or relatives who reside at the place of work.

Records

Employers are obliged to record the number of hours (excluding meals and rest breaks) worked by employees on a daily and weekly basis. They must also record leave and starting and finishing times. Where an employer does not have a clock in system records must be kept on new form OWT 1.

(for more information see HSR: December 1996 p9; December 1997 p19)

Workstations – indoor: construction

SI 504/06, Part 4, Regs 46, 47, 49, 50

On-site indoor workstations must be stable and solid. They indoor, construction should be fitted with emergency doors that open outwards. Sliding or revolving doors are banned for emergency exits. Ventilation, temperature and lighting should be controlled, so that workers are not exposed to draughts, dust and excessive sunlight. Artificial lighting must be adequate.

Floors shall not have bumps, slopes or holes. Surfaces on floors, walls and ceilings should be easy to clean or refurbish to an appropriate standard of hygiene. Glass walls or transparent or translucent walls should be clearly marked and so should doors of similar materials. Swing doors should be transparent or have see-through panels. Employees should be able to open, shut and adjust windows, skylights and ventilators. Traffic routes should be clearly identified and escalators and travelators should be equipped with safety devices. Rooms should be of a size that people can work in them safely and without risk to health.

Young persons

PYPEA 96

MQA Ss 107, 108, 109, 110, 111

SI 165/56, SI 1/97, SI 2/97, SI 3/97, SI 504/98

SI 350/01, SI 351/01

The Protection of Young Persons (Employment) Act 1996 gives effect to an EU health and safety directive on the protection of young workers. The Act, which is concerned with workers under 18 years of age, places

limits on the hours they may work. Those under 18 may not be employed for more than 40 hours per week or eight hours per day.

Those aged 14 may not work during school term time nor may they work more than 35 hours a week at other times – unless on a work experience programme when they may work 40 hours a week. Fifteen year olds may, during term time, work eight hours a week and otherwise the same hours as 14 year olds.

There are also limits on night, early morning and evening working. Those under 16 may not start work until 8am, while if over 16 they may start at 6am. They may not work later than 8pm (or 10pm if over 16) when there is school the next morning - or 10pm (11pm if over 16) if there is no school. Rest periods must be allowed, after 4 hours for those under 16 and after 4.5 hours for those over 16. All young employees are entitled to two days off every week and 12 hour off between work periods, or 14 hours if they are under 16. A young person who is employed on a fishing vessel between 10pm one day and 6am the next day must be allowed equivalent compensatory rest time.

Recent regulations permit a full time bar apprentice, who is a young person, to work up to midnight provided he/she is not required for work before 8am the following morning. Young persons working on general bar duties may work until 11pm, provided the following day is not a school day and/or the young person is not required to work before 7am the next day.

Employers must any risk to a child or young person's health and safety. When carrying out the assessment the employer must take account of the child/young person's lack of experience, absence of awareness of risks, lack of maturity and exposure to harmful physical, chemical or biological agents and work processes. Other factors to be considered are the layout/fitout of the work station, work equipment, working arrangements and training and supervision provided. If the assessment reveals a risk that the child/young person would not understand or that exposes them to extremes of heat, cold or vibration they must not be employed to do that work.

Where a risk is identified and preventative measures are taken, the young person and in the case of a child, the child's parent/guardian must be informed of the measures taken. The results of health assessment and surveillance must be disclosed. A schedule to SI 504/98 sets out a non-exhaustive list of agents and processes to be considered when carrying out a risk assessment.

Employers must display an abstract of information on the Act and regulations.

A register must be kept of young persons employed in mines. A child may not be employed below ground in a mine.

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