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HEALTH AND SAFETY IN THE WORKPLACE

The Safety, Health and Welfare at Work Act 2005, is the principle legislation whereby the health and safety of persons in the workplace is provided for. This Act consolidates and updates the provisions of the Safety, Health and Welfare Act 1989. It applies to all employers, employees and self-employed people in their workplaces. The Act sets out the rights and obligations of both employers and employees and provides for substantial fines and penalties for breaches of the health and safety legislation.

Almost all of the specific health and safety laws which apply generally to all employments are contained in the Safety, Health and Welfare at Work (General Application) Regulations 2007 which came into effect on 1st November 2007. These Regulations replaced the 1993 General Application Regulations and other secondary legislation in the area of health and safety at work.

We have set out below some of the most important aspects of health and safety law which affect employees and which employers must now consider.

Sitting and standing regulations

The General Application Regulations 2007 state that it is the duty of every employer to ensure that;

“where any employees have in the course of their employment reasonable opportunities for sitting without detriment to their work or, where a substantial proportion of any work done by employees can properly be done sitting,

- i. suitable facilities for sitting are provided and maintained for their use, or*
- ii. if this is not practical, they are otherwise ergonomically supported”*

Whether an employee will have to sit or stand will obviously depend on the work activity to be carried out. If an employee is to be seated at a workstation, then any such workstation should be designed with the worker and their task in mind. Every employee should be able to maintain a correct and comfortable posture while carrying out their respective tasks. To aid this requirement certain ergonomic factors should be considered when designing a workstation. All seats supplied to employees should be adjustable and provide adequate support to the lower back. The lower part of the back rest must be given a convex shape to preserve the curve of the lower back. To further prevent injury an employer should ensure that employees are able to reach their entire area without stretching or twisting.

Should an employee be required to perform work in a standing position, it is imperative that he/she be able to do so whilst maintaining an upright and forward facing posture. All work activities should be properly planned to allow the employee to adopt several different postures without reducing their ability to work. If possible an employer should make provisions to allow the employee to alternate between sitting and standing to ensure that no prolonged postures occur.

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Ultimately there is no preference as to whether an employee's health and safety requirements are met more effectively through sitting or standing, the decision on whether the employee sits or stands will depend on the work being undertaken and a site-specific risk assessment.

Temperature

The temperature of a workplace can have an adverse effect on the welfare and health of employees and therefore falls under an employer's general duty under the 2005 Act to ensure the safety, health and welfare of employees. Employers should have due regard to complaints raised in relation to temperature levels in the workplace and should take all reasonable steps to ensure a comfortable temperature is maintained.

Regulation 7 of the 2007 Regulations contains important provisions on minimum temperatures and provides that;

'An employer shall ensure that...during working hours, the temperature in rooms containing workstations is appropriate for human beings, having regard to the working methods being used and the physical demands placed on the employees'

There is no maximum temperature covered under the Regulations, however an employer must ensure that a minimum temperature of 17.5°C is maintained, as far as reasonably practicable, at all workstations for sedentary workers. In certain circumstances where it is difficult to maintain an appropriate temperature, it may be necessary under the regulations to provide extra heating and/or protective clothing to employees at individual workstations. All employees are entitled to have some means readily available to them to enable them to measure the temperature in any workstation. Although no maximum temperature is specified this does not mean that any temperature above 17.5°C is acceptable. At high temperatures a means of cooling should be provided to all employees.

Furthermore under Regulation 6 an employer must ensure that each enclosed workspace is adequately ventilated. The Health and Safety Authority Guide to the 2007 Regulations states that in most cases the ventilation provided through windows and doors will be adequate, however in certain situations mechanical ventilation may be required. Where such mechanical ventilation systems are operational the employer is under a duty to ensure that they are in good working order and that they are free from any substance which may contaminate the air.

Noise

Employers have a legal duty to protect the health and safety of employees from all noise related risks in the workplace. Noise can have a number of physiological and psychological effects on workers; such detrimental effects include stress, tinnitus and possibly hearing loss. Excessive noise can also interfere with communication between employees and can therefore lead to an increased risk of workplace accidents.

Where there is a reasonable belief that the noise which employees are exposed to exceeds the '*lower exposure action values*' (a daily or weekly exposure of 80dB) as set out in the 2007 Regulations, an employer is under a duty to carry out a 'risk assessment'. The purpose of such an assessment is to enable the employer to decide whether the noise is at such a level that will require him/her to take certain action to eliminate or control the noise levels. While undertaking such an assessment employers should identify the noise hazards and those employees who are at risk.



Once it is found that noise levels exceed 85 decibels the employer has a duty to inform his/her employees of the risks involved and the procedures that are in place to reduce their exposure to the risk. Employers should advise employees to wear hearing protection and should provide such protective devices as are necessary (Regulation 129). When a noise hazard has been identified the most effective method of protecting employees is for the employer to remove the source of such noise. If removal is not possible then an employer must take steps to reduce the noise by all reasonable means. Measurements of noise must be repeated at appropriate intervals especially if there is any significant change in the work patterns of employees or the machines which are used.

As always it is necessary to review the situation on a regular basis, as work practices and noise exposure levels may change over time. Further to this new ways of reducing noise may become available in time. Regulation 131 provides that employers must make arrangements to have employees hearing tested prior to commencing work and at regular intervals thereafter.

Light

Lighting at work is of paramount importance to the health and safety of employees in the workplace. The key idea being that the quicker and easier it is to see a hazard the easier it is to avoid it. The types of hazards present in a workplace will therefore have a bearing on the lighting requirements needed to avoid injury. Further to the avoidance of hazards poor lighting can also cause eyestrain, headache and migraines.

Regulation 8 of the 2007 Regulations provides that;

An employer shall ensure that—

- (a) places of work receive, as far as possible, sufficient natural light and are equipped with artificial lighting adequate for the protection of the safety and health of the employer's employees,*
- (b) lighting installations in rooms containing workstations and in passageways are placed in such a way that there is no risk of accident to the employer's employees as a result of the type of lighting fitted, and*
- (c) places of work in which the employer's employees are especially exposed to risks in the event of failure of artificial lighting are provided with emergency lighting of adequate intensity.*

In general employers must ensure that lighting is sufficient to enable employees to work and move about the workplace safely. When specific risks exist then an employer should provide localized lighting to highlight such specific risks. Where there is a risk of sudden loss of light emergency lighting should be installed and this should be powered by an independent source. The main risks to employee's health and safety arise from lighting effects, incorrect lighting design, improper lighting installation, maintenance and replacement, and improper selection of emergency lighting. Employers should actively seek to avoid glare, flicker or stroboscopic effects caused by workplace lighting.

Safety Signs

Safety signs are used in the workplace where the risk of a hazard or danger exists and this risk cannot be sufficiently avoided or alleviated in any other way. Prior to installing safety signs employers must always firstly attempt to reduce the risk of a hazard or danger by employing safer methods of work or changing the way in which work is carried out in the workplace.



Regulation 160 of the 2007 Regulations provides that an employer shall:

'provide safety or health signs, or both, at the place of work where hazards cannot be avoided or adequately reduced by techniques for collective protection or measures, methods or procedures used in the organisation of work.'

A safety sign can take many forms and could be a signboard, colour, acoustic signal, verbal communication or hand signal. A signboard is a sign that provides information using a combination of shape, colour and symbols but excludes information in writing. The idea behind signboards is to ensure that employee's health and safety is protected regardless of the language capabilities of the employee. Where a signboard was already in place before 1 November 2007 and contains text it may remain in place until 1 January 2011, after which date it should be replaced by a signboard which does not contain any text. A supplementary safety sign may be included with a safety signboard provided it does not adversely affect the effectiveness of the safety signboard.

The system for signs and signboards is based on the familiar "traffic light" colours: red for prohibition, yellow for caution and green for a positive action. A fourth colour, blue, is used for mandatory signs and to convey information such as the location of an emergency telephone. The shapes of the signboards are also standardized as follows: discs for prohibitions and instruction, triangles for warnings, and squares and rectangles for emergency and informative signs.

Generally it is a requirement that employers clean, maintain, check, repair and replace all safety signs on a regular basis. The number of signs required will depend on the extent of the hazard that the employer is seeking to draw attention to. In addition to this signs which require some form of power source, must also be equipped with an emergency power source to protect employees in the event of a power cut.

Visual Display Units ("VDU"s)

VDU's refer to any and every display screen that is used by an employee. With the ever increasing use of VDU's, the health and safety of employees in this regard is becoming ever more important for employers.

The Regulations impose duties on an employer to protect an employee:

"who habitually uses display screen equipment as a significant part of his or her normal work".

The main problems which employers must be concerned with stem from the reflection and glare which emanates from VDU's, the operator's position when working at a VDU and software that is being used on the VDU. An employee who is dependent on their VDU to carry out his or her job or an employee whose job demands high levels of attention and concentration whilst using a VDU will be especially protected under the Regulations. In these situations it is important that the employer consults the employee on all health and safety matters, and carries out a risk assessment of all workstations where a VDU is being used. Employees who use VDU's should also be allowed take frequent breaks from their VDU in order to protect their health and safety.

Where an employee '*habitually uses*' (i.e. one continuous hour or more per day) VDU's, then that employee has a right to an eye examination prior to beginning their employment and then at regular intervals thereafter. It is a duty of the employer to inform employees that they are entitled to be provided with an appropriate eye examination. Where such an examination reveals that glasses are required for working with VDU's, then the cost of



providing such glasses must be borne by the employer. Employers will not be under a duty to provide for eye care where other defects are found during a routine eye examination.

Conclusion

Above are some of the main areas in which employers must be vigilant while ensuring the health and safety of their workers. This article however is only a brief insight into the duties which each and every employer holds, other duties include providing protective equipment, preventing violence in the workplace, preventing bullying in the workplace, providing health and safety leave and many more. The key idea is that every employer must ensure the health and safety of all employees in the workplace as far as is reasonably practicable. The first step in doing this is to carry out a detailed risk assessment of the workplace in order to identify any hazards which are present in the workplace. Most importantly for employers however is the requirement to prepare a safety statement based on the findings of the risk assessment. This safety statement will set out the management and emergency responsibilities of certain designated employees in the event of a workplace accident. Further to this it will also specifically set out the protective and preventative measures which the employer has put in place to once again ensure the health and safety of their employees. The employer is then under a duty to bring this safety statement to the attention of their employees and also to update and review it on a regular basis.

This summary is intended to be general in nature and specific legal advice should be taken on each particular situation.

If you have any questions in relation to the above or would like advice on a related matter please contact Alan O' Driscoll or any member of the firm.