

Reference No: E107/29/88; **Date:** 07/12/90

Circular 32/1990:- Safety, Health and Welfare at Work Act, 1989.

A Dhuine Uasail,

I am directed by the Minister for Finance to refer to the Safety, Health and Welfare at Work Act, 1989 and to the need for all Departments to ensure full compliance with the Act in relation to securing the safety, health and welfare of their employees and for protecting others against risks to safety and health in connection with departmental work activities. As the responsibility for observing the Act rests with each Department, Departments should familiarise themselves fully with the provisions of the Act.

Main features of the Act

2. The main purposes of the Act are -

(1) to provide for a comprehensive and integrated system of law relating to safety, health and welfare of persons at work and for protecting others against risks to their safety or health in connection with the activities of persons at work;

(2) to establish a National Authority for Occupational Safety and Health with responsibility for administering and enforcing the relevant statutory provisions; and

(3) to provide for the repeal over a period of time of the existing enactments relating to safety and health of persons at work and their replacement by regulations and codes of practice under the Act.

3. The Act sets out general responsibilities for all employers, workers and the self-employed. Primary responsibility for safety and health matters in Departments is placed on management, who will have to ensure, so far as is reasonably practicable, the safety, health and welfare at work of staff of the Department and that the conduct of each Department's undertaking does not endanger staff or others (sections 6 and 7). In this connection, Departments will have to have regard to the following:

- (a) ensuring that there is a safe and healthy workplace;
- (b) safe means of access and egress;
- (c) buildings and equipment must be safe and not injurious to health;
- (d) safe systems of work;
- (e) provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the safety and health at work of employees;
- (f) where hazards cannot be eliminated by collective means, provision of suitable protective clothing and equipment etc;
- (g) emergency plans;
- (h) safe use etc. of any article or substance;
- (i) provision of facilities and arrangements for welfare of employees.

Departments should also note that under Section 8 of the Act, they have responsibility for certain aspects of the safety and health of persons not employed directly by the Department who may be using departmental premises in connection with their own work activities.

4. Section 9 of the Act places general duties on employees which will require them:

- (a) to take reasonable care of their own safety, health and welfare at work and that of any other person who might be affected by their acts or omissions while at work;

- (b) to co-operate with their employers to such an extent as will enable their employers to comply with any of the relevant statutory provisions;
- (c) to use protective clothing, equipment etc., as provided by their employer while at work;
- (d) to report to their employer or immediate supervisor, without unreasonable delay, any defects in plant, equipment etc., of which they become aware;
- (e) not to interfere with or misuse safety equipment etc.

5. Section 10 of the Act places general duties on designers, manufacturers, importers and suppliers of articles and substances for use at work. These include the following duties:

- (a) to ensure, as far as reasonably practicable, that articles are designed, constructed, tested and examined so as to be safe and without risk to health when used by a person at a place of work and that substances will be safe and without risk to health when they are being used by a person at the place of work, and
- (b) to take such steps as are necessary to ensure that persons supplied with articles or substances are provided with adequate information so as to ensure that such articles and substances will be safe and without risk to health.

6. Section 11 sets out the general duties applying to persons who design or construct places of work.

Safety Statement

7. Each Department will be required to identify hazards and assess risks to safety and health in the workplaces covered by its area of activity and to draw up a safety statement. More than one safety statement may be necessary where there is a wide divergence of workplaces and activities comprehended by the one Department. Section 12 of the Act provides that the safety statement should specify the manner in which the safety, health and welfare of persons employed by an employer shall be secured at work and that it should be based on the identification of hazards and an assessment of the risks to safety and health at the place of work. The safety statement, which should be drawn up in consultation with staff representatives, should specify:

- (a) the arrangements made and resources provided for safeguarding the safety, health and welfare of persons employed at a place of work to which the safety statement relates;
- (b) the co-operation required from employees health and welfare; and as regards safety,
- (c) the names, including the names of authorised deputies and job titles where applicable, of the persons responsible for the performance of tasks assigned to them by the statement.

In drawing up their safety statements, Departments should examine their current safety policy and practice with a view to seeing whether it needs to be altered in the light of the new legislation. There should be arrangements for periodic review and updating of statements as appropriate. Safety statements should be brought to the attention of the staff of each Department and to other persons at the place of work whose safety and health may be affected by the work activities. In order to identify hazards and

assess risks, Departments may need to seek competent outside assistance if the required expertise is not available within Departments.

Advice on drawing up safety statements, for the assistance of Departments, is included in the appendix to this Circular. (The Health and Safety Authority (see paragraph 11 below) have published guidelines on (a) safety statements and (b) safety consultation and safety representatives. These may be obtained from the Authority's headquarters at Davitt House, Mespil Road, Dublin 4).

Consultation at place of work and safety representation

8. Provision is made under Section 13 of the Act for the establishment of consultative mechanisms on safety and health at work and the Act also provides for the appointment of and the functions of safety representatives at the place of work. Departments should note the following:

(a) Staff must be consulted on matters relating to safety and health at work, and Departments must, as far as is reasonably practicable, take account of any representations made by staff. While the Act does not set out any specific mechanisms for consultation, it was agreed at General Council that such consultation in the Civil Service would best be effected through the machinery of Conciliation and Arbitration e.g. by way of safety and health committees of Departmental Councils.

Every effort should be made to resolve issues at local/ Departmental level. Where it does not prove possible to resolve a particular issue at this level, however, it should be referred to General Council where a safety and health sub-committee comprising representatives of both the Official and Staff Sides will consider the question at issue. This Department, following consultation with the safety and health sub-committee of General Council where appropriate, will, where necessary, advise Departments/Offices on safety and health matters of general application.

(b) The Act provides for the selection and appointment, by staff, of a Safety Representative in a place of work, who will have the right to represent them in consultation with Departments and to have from Departments any necessary information to ensure the safety and health of staff. The Safety Representative will be able to, inter alia,

- * make representations to Departments on safety and health matters which Departments are then required to consider;

- * investigate accidents or dangerous occurrences provided they do not interfere with or obstruct the performance of any statutory obligation required to be performed by any person under any of the relevant statutory provisions;

- * make oral or written representations to inspectors on safety and health matters (see paragraph 11).

Safety representatives must be afforded reasonable time off with pay (having regard to all the circumstances) in order to allow them to (i) acquire the knowledge necessary to discharge their functions as safety representatives, and (ii) discharge their functions as safety representatives.

Staff in Departments work in a variety of environments and the hazards in a large headquarters office will be different from those in, for example, a prison workshop, a laboratory or a storage depot. These variations must be borne in mind by Departments when discussing arrangements locally, with particular reference to the number of safety representatives, the extent of their training needs, the size and number of any safety committees established in particular areas and the frequency of meetings.

Training and information

9. Departments should ensure that staff, particularly those with responsibility for safety and health matters, receive appropriate training and information to enable them to carry out the duties imposed on them by the legislation. To complement training by the unions for safety representatives, Departments should make such arrangements as are necessary to provide training in the technical hazards of workplaces under their control and the relevant precautions on safe methods of work, and on the organisation for safety and health.

General obligations with regard to fire safety

10. Section 55 of the Act repeals sections 18(1)(f)(i) and 19(2)(b) of the Fire Services Act, 1981 and sections 45 and 47 (as amended by the Safety in the Industry Act, 1980) of the Factories Act, 1955, sections 46, 48 and 122(2) of the Factories Act, 1955 and section 27 of the Safety in Industry Act, 1980. In effect, this means that the general obligations with regard to fire safety specified in section 18(1) of the Fire Services Act, 1981 will now apply to premises constituting a factory within the meaning of the Safety in Industry Acts, 1955 and 1980 and that such premises can now be classified as "potentially dangerous buildings" for the purposes of the Fire Services Act. The purpose of these repeals is to provide that responsibility for overseeing fire safety in factories will rest with the fire authorities under the Fire Services Act, 1981 and not with the Health and Safety Authority or its agents under the Safety, Health and Welfare at Work Act, 1989. However, responsibility for overseeing fire safety at places such as petroleum stores and oil jetties to which the Dangerous Substances Act, 1972 applies will rest with the Authority. In addition, in recognition of the fact that fire safety matters may not be totally separated from other aspects of safe working, paragraph 35 of the Fourth Schedule to the 1989 Act enables the Minister for Labour to make regulations under the Act as regards "requirements to be imposed in prescribed circumstances with respect to the taking of precautions in connection with the risk of fire".

National Authority for Occupational Safety and Health

11. The Act provides for the establishment of a National Authority (Health and Safety Authority) with responsibility for occupational safety and health issues. The functions and powers of the Authority, which will include the power to have premises inspected and to prosecute offenders where it is considered necessary, are shown in Sections 14 to 47 and Section 51 of the Act. The Authority is a tripartite body representing employers, trade unions and Government Departments/Agencies. The Authority is responsible for the general administration of the new system and it will be required to provide an expert centre of advice and information for employers and workers to assist them in meeting their obligations under the Act. It will also keep the safety and health legislation under review, introduce new regulations and draw up codes of practice where necessary. The Authority is empowered to establish Advisory Committees to advise on occupational safety and health matters.

Bringing the new arrangements to notice

12. The attention of all serving staff and new entrants should be drawn to the contents of this Circular.

13. Questions arising from this Circular should be addressed in the first instance to the General Section of this Department (767571 x 3543).

Mise le meas,

J. McGovern
Assistant Secretary

Appendix - Guide to Writing a Safety Statement

1. Introduction

Under Section 12 of the Safety, Health and Welfare at Work Act, 1989, every Department is required to have a written statement of its safety and health policy. This statement, which should be specific to each Department, must

- (i) state the general policy on safety, health and welfare;
- (ii) describe the organisation and arrangements for carrying out the policy;
- (iii) be brought to the notice of all persons employed by the Department; and
- (iv) be revised whenever appropriate.

In the case of Departments engaged in a number of different activities or where the operations are geographically widespread, the policy may require formulation at more than one level. These levels comprise the general policy of the Department, the policy of each specialist service and the local policy for individual establishments or buildings, each of which combine to form the overall policy.

2. General statement of policy on safety, health and welfare

This should set out, in simple terms, the general aims of each Department with regard to the safety and health of staff and others who might be affected by work activities. The statement should:

- (i) contain an undertaking to comply fully with all relevant legislation subject only to such exceptions and qualifications as are provided in the legislation, and indicate broadly the implications of that undertaking;
- (ii) briefly outline the overall organisation and arrangements for safety and health;
- (iii) stress the importance of co-operation from the work force as regards safety, health and welfare at work; and
- (iv) be signed by a senior member of management so as to make clear the Department's commitment to the policy.

3. Organisation for carrying out the policy

A statement should include the following items in regard to the organisation for carrying out the policy:

- (i) the names of the senior officer and other staff responsible for day-to-day management of safety, health and welfare matters;
- (ii) the responsibilities of the senior officer and staff mentioned above;
- (iii) the responsibilities of line management;
- (iv) the arrangements for covering the absence of personnel with key safety functions;
- (v) appropriate reference to arrangements with other Departments e.g. with respect to common services or premises which are occupied by staff of more than one Department;

- (vi) a description of the means of communication between officers mentioned at (i) and (ii) above and staff of the Department;
- (vii) a description of the organisation for joint consultation on safety and health e.g. safety committees, together with up-to-date information about the identity of safety representatives and members of safety committees;
- (viii) appropriate reference to the importance of full compliance by all staff with the duties of care and co-operation laid on them by Section 9 of the Act.

4. Arrangements for safety and health

The statement should describe the systems and procedures for ensuring employees' safety and health. Departments will need to analyse the activities carried out by them, to assess likely hazards to safety and health of staff and others who will be put at risk by Departments' activities, and to take appropriate reasonable action to eliminate such risks. Amongst the arrangements needing consideration by Departments in this regard are the following:

- * Good housekeeping i.e. keeping premises, including staircases, floors, ways in and out, washrooms etc. in a safe and clean condition, by cleaning, maintenance and repairs
- * Heating and ventilation should be suitable and properly maintained
- * Lighting to comply with the relevant standards
- * Control of noise levels
- * Maintenance of electrical installations and equipment
- * Regular testing and maintenance of lifts, pressure systems, boilers and other dangerous machinery
- * Training in manual lifting techniques where appropriate
- * Providing protective clothing and equipment where appropriate
- * Protecting the safety of employees against assault where appropriate
- * Preventing unnecessary or unauthorised entry into hazardous areas
- * Ensuring that measures are taken for the control of hazardous substances and for protecting staff from them
- * Ensuring that fire exits are clearly marked, easy to open and free from obstruction. Maintenance and testing of fire fighting equipment, fire drills and evacuation procedures
- * First aid, indicating name and location of person responsible for first aid and location of first aid box

- * Consideration as regards the safety and health of particularly vulnerable groups e.g. young workers, pregnant women, people with disabilities, new or inexperienced workers, older workers
- * Providing staff with information about their general duties under the Act and specific legal requirements relating to their work
- * Providing staff with necessary information about plant, machinery and equipment with which they come into contact
- * Training staff, at all levels, to work safely and to carry out their safety and health responsibilities efficiently
- * Supervising staff so far as necessary for their safety
- * Regular inspections of the workplace, machinery, appliances and working methods
- * Provision for the safety of non-employees (contractors, visitors etc.) who may be put at risk by workplace activities.

One possible approach is to set these matters out in fairly general terms in the safety statement and to refer the readers to other documents for full details, such as safety checklists, the training programme and emergency instructions. It may be that not all staff will need to see all these detailed instructions, but the safety statement itself must be brought to the notice of all staff.

Departments should note that the above list is not exhaustive.

5. Consultation with interested parties

When drawing up a safety statement, it is important that the views of management, supervisors, safety representatives and of safety committees (where appropriate) be taken into account.

6. Monitoring the safety statement

Departments should regularly monitor their safety statements to ensure that they are having the desired effect and that they are revised whenever appropriate. The following aspects would need consideration when monitoring safety statements:

- (a) the accident and ill-health records;
- (b) the record of "near miss" incidents;
- (c) the standards of compliance with legal requirements;
- (d) the extent to which objectives are met within the time-scale originally agreed for them;
- (e) the extent of compliance with the "organisation" and "arrangements" elements of each policy statement;
- (f) representations/complaints from safety representatives.