

Workplace Injury

The employer is under a strict legal duty to provide employees with a safe place of work, a safe system of work and co-employees who are correctly trained in their field of employment.

Employer's liability for accidents arises usually as a breach of one of the Common Law Duties that are imposed upon any employer in the jurisdiction in Ireland.

The main legislation providing for the health and safety of people in the workplace is the [Safety, Health and Welfare at Work Act 2005 \(as amended\)](#). It applies to all employers, employees (including fixed-term and temporary 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.

The duties upon the employer can be broadly defined as follows:

The duty to provide a safe place of work.

Where the work environment is unsafe or hazard in the way of the employee and an accident results then the employee is entitled to claim for compensation for the injury that results.

Safe employees with which to work

The Employer is required to give proper and adequate training to all employees so that they can perform the task assigned to them in a safe manner and thus not injuring a fellow employee. For example where a driver of a forklift is not properly trained by the employer to perform this task and an injury results to a fellow employee, that employee can bring a personal injuries action against the employer and claim compensation for his injuries.

Safe equipment

The employer is under a duty to provide proper equipment for the employers to perform the task required. In addition, the employer is under a duty to maintain this equipment in a good and workmanlike manner and if the employer fails to do so and an injury results then the employee is entitled to bring a claim for personal injuries.

Duty to provide a safe system of work.

The employer is not entitled to implement a system of work which is dangerous to the health and safety of his employees and where a poor system of work is required to be carried out by the employees and an accident results then, in such circumstances the employee is entitled to bring a claim for personal injuries.

For example where employee drivers are required to either drive for excessive hours without necessary breaks. If an injury results from this poor system of work then the employee is entitled to claim compensation from the employer for the injury.

Employer's duties

Under Section 8 of the Act the employer has a duty to ensure employees' safety, health and welfare at work as far as is reasonably practicable. In order to prevent workplace injuries and ill-health the employer is required, among other things, to:

- Provide and maintain a safe workplace which uses safe plant and equipment
- Prevent risks from use of any article or substance and from exposure to physical agents, noise and vibration

- Prevent any improper conduct or behaviour likely to put the safety, health and welfare of employees at risk
- Provide instruction and training to employees on health and safety
- Provide protective clothing and equipment to employees
- Appointing a competent person as the organisation's Safety Officer

Employees' duties

- The duties of employees while at work are set out in [Section 13](#) of the Act. These include the following:
- To take reasonable care to protect the health and safety of themselves and of other people in the workplace
- Not to engage in improper behaviour that will endanger themselves or others
- Not to be under the influence of drink or drugs in the workplace
- To undergo any reasonable medical or other assessment if requested to do so by the employer
- To report any defects in the place of work or equipment which might be a danger to health and safety

Risk assessment and safety statement

Under the Safety, Health and Welfare at Work Act 2005, every employer is required to carry out a risk assessment for the workplace which should identify any hazards present in the workplace, assess the risks arising from such hazards and identify the steps to be taken to deal with any risks. The employer must also prepare a safety statement, which is based on the risk assessment. The statement should also contain the details of people in the workforce who are responsible for safety issues. Employees should be given access to this statement and employers should review it on a regular basis. The Health and Safety Authority has [published guidelines on risk assessments and safety statements \(pdf\)](#).

Protective equipment and measures

The employer should tell employees about any risks that require the wearing of protective equipment. The employer should provide protective equipment (such as protective clothing, headgear, footwear, eyewear, gloves) together with training on how to use it, where necessary. An employee is under a duty to take reasonable care for their own safety and to use any protective equipment supplied. The protective equipment should be provided free of charge to employees if it is intended for use at the workplace only. Usually, employees should be provided with their own personal equipment. You can find more information in this list of [frequently asked questions about personal protective equipment](#).

There is a range of measures that employers must take regarding visual display units (VDUs). These include examining the reflection and glare, the operator's position in front of the VDU, the keyboard and the software used. Operators must be given adequate breaks from the VDU. In addition, employers must arrange for eye tests and, if required, contribute towards the purchase of prescription eyeglasses. The Health and Safety Authority (HSA) has published a [list of frequently asked questions about display screen equipment \(VDUs\)](#).

Reporting accidents

All accidents in the workplace should be reported to the employer, who should record the details of the incident. Reporting the accident will help to safeguard social welfare and other rights that may arise as a result of an occupational accident.

An employer is obliged to report any accident that results in an employee missing 3 consecutive days at work (not including the day of the accident) to the Health and Safety Authority.

[The Safety, Health and Welfare at Work \(General Application\) \(Amendment\) \(No.3\) Regulations 2016](#) set out the statutory responsibilities on employers in reporting of accidents and dangerous occurrences at workplaces.

Health and safety leave

An employer should carry out separate risk assessments in relation to pregnant employees. If there are risks to an employee's pregnancy, these should be either removed or the employee moved away from them. Under [Section 18 of the Maternity Protection Act 1994](#), if neither of these options is possible, the employee should be given health and safety leave from work, which may continue up to the beginning of maternity leave. If a doctor certifies that night work would be unsuitable for a pregnant employee, the employee must be given alternative work or health and safety leave.

Following an employee's return to work after maternity leave, if there is any risk to the employee because she has recently given birth or is breastfeeding, it should be removed. If this is not possible, the employee should be moved to alternative work. If it is not possible for the employee to be assigned alternative work, she should be given health and safety leave. If night work is certified by a doctor as being unsuitable after the birth, alternative work should be provided. If alternative work cannot be provided, the employee should be given health and safety leave.

Time spent on health and safety leave is treated as though the employee has been in employment, and this time can be used to accumulate annual leave entitlement. The employee is not entitled to leave for any public holidays that occur during health and safety leave. During health and safety leave, employers must pay employees their normal wages for the first 21 days (3 weeks), after which [Health and Safety Benefit](#) may be paid.

Victimisation

Under the Safety, Health and Welfare at Work Act 2005, the employee may not be [victimised](#) for exercising their rights under safety and health legislation such as making a complaint. This means that the employer may not penalise an employee by dismissal or in some other way, for example, by disciplinary action or by being treated less favourably than other employees – see 'Enforcing your rights' below.

Health and Safety Authority

The Health and Safety Authority – see 'Where to apply' below is responsible for enforcing health and safety at work. It provides information to employers, employees and self-employed people on workplace health and safety. Its publications include a [Short Guide to the Safety, Health and Welfare at Work Act 2005 \(pdf\)](#) and a set of [Simple Safety](#) leaflets which are aimed at small retail or food businesses in particular. [The Simple Safety leaflets are available in other languages.](#)

How to apply

If an employee has an accident at work they may apply for [Injury Benefit](#). This is a weekly payment from the Department of Employment Affairs and Social Protection if they are unfit for work due to an accident at work or an occupational disease.

Personal injury claim: If an employee has suffered an injury at work, they cannot seek compensation from the employer under the health and safety legislation but they can make a personal injury claim through the [Personal Injuries Assessment Board \(PIAB\)](#).

PIAB is an independent statutory body which gives an independent assessment of personal injury claims for compensation following an accident. It will only give an assessment of compensation where the person responsible is not seeking a decision on liability, or, in other words, where legal

issues are not disputed. All claims involving workplace accidents (employer liability cases) must be submitted to PIAB before starting legal proceedings. All personal injury claims (excluding medical negligence) must also be submitted to PIAB. It assesses compensation quickly but doesn't award costs for or against either party. If either you or your employer rejects the assessment PIAB will issue you with an authorisation allowing you to make a [claim through the civil courts](#).

If you wish to make a complaint of victimisation or about your rights under the Safety, Health and Welfare at Work Act you should apply to the Workplace Relations Commission within 6 months of the complaint occurring. You must use the online complaint form available on workplacerelations.ie. The time limit may be extended for up to a further 6 months, but only where there is a reasonable cause which prevented the complaint being brought within the normal time limit.