

SUBSIDIARY LEGISLATION 424.18

**GENERAL PROVISIONS FOR HEALTH AND
SAFETY AT WORK PLACES REGULATIONS**

24th January, 2003

LEGAL NOTICE 36 of 2003.

1. The title of these regulations is the General Provisions for Health and Safety at Work Places Regulations. Citation.

2. (1) The scope of these regulations is to introduce measures by which to encourage and ensure improvements in the health and safety of workers at work through the prevention of risks, the promotion and safeguard of occupational health and safety, and through the elimination of those risks and factors which are likely to cause accidents at work. Scope.

(2) These regulations are also intended to encourage the exchange of all information concerning occupational health and safety amongst all stakeholders at workplaces, and the consultation, balanced participation and training of workers and their health and safety representatives.

(3) Nothing in these regulations shall debar the Authority from issuing any order to any person concerning any workplace in the interests of the occupational health or safety of a person or persons.

3. (1) In these regulations, unless the context otherwise requires - Interpretation.

"Act" means the Occupational Health and Safety Authority Act; Cap. 424.

"Authority" means the Occupational Health and Safety Authority established by virtue of article 8 of the Act;

"fixed term contract of employment" means a contract of employment for a specific term which is fixed in advance or which can be ascertained in advance by reference to some relevant circumstance;

"health surveillance" means any procedure or investigation used to assess workers' health in order to detect, identify, and quantify any medical abnormality, and to protect the health of the individual, collective health at the workplace, and the health of the exposed working population, and shall include, but shall not be limited to medical examinations, biological monitoring, radiological examinations, questionnaires, or reviews of health records;

"occupational health and safety officer" and "officer" mean an occupational health and safety officer appointed in terms of article 15 of the Act;

"prevention" means and includes all the steps or measures taken or planned at all stages of work carried out in an undertaking to

prevent or reduce occupational risks;

"temporary worker" includes any worker under a fixed term contract of employment and, or any worker who has a temporary employment relationship with an employer, including:

- (a) a worker having an employment relationship governed by a fixed term contract of employment concluded directly between the employer and the worker, where the end of the contract is established by objective conditions including reaching a specific date, completing a specific task or the occurrence of a specific event;
- (b) a worker having a temporary employment relationship with an employer who has a temporary employment business, and where the worker is assigned to work for, and under the control of an undertaking and, or an establishment making use of his services;

"workers' health and safety representative" and "representative" mean a workers' health and safety representative appointed in terms of article 6(4) of the Act.

General duties of employers.

4. (1) It shall be the duty of an employer to ensure the health and safety of workers at all times in every aspect related to the work.

(2) An employer shall make such appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures, taking into consideration the nature of the activities and the size of the undertaking.

(3) An employer shall take all necessary measures for the safeguard of occupational health and safety, and for this purpose shall prevent occupational risks and provide information and training as required:

Provided that for these purposes, an employer shall provide the necessary organisation and means by which to ensure the requisite degree of occupational health and safety standards:

Provided further that, with the aim of improving existing situations, an employer shall be alert to the need to adjust or amend those measures taken to protect workers' health and safety taking account of changing circumstances.

Further duties.

5. Without prejudice to the generality of the provisions of these regulations, an employer shall, after taking into account the nature of the activities of the enterprise and, or establishment -

- (a) identify hazards at the place of work and shall avoid risks to occupational health and safety;
- (b) evaluate those risks to the health and safety of workers which cannot be avoided and shall combat them at source;
- (c) adapt the work to the individual, especially with regards to the design of work places, the choice of

work equipment and the choice of working and production methods, with a view in particular to alleviate monotonous work and work at a predetermined work-rate and to reduce their effect on health.

6. (1) Without prejudice to the generality of the foregoing, an employer shall evaluate risks to occupational health and safety, *inter alia* in the choice of work equipment, the chemical substances or chemical preparations used, the work practices or activities, and the design and fitting-out of work places, as well as the workers' capabilities to carry out safely the task or tasks entrusted to them.

Evaluation by the employer.

(2) Subsequent to the evaluation referred to in the preceding subregulation, and as necessary, the employer shall take all necessary measures to prevent occupational risks to health and safety, and shall control those factors which are likely to give rise to accidents or which create a risk to occupational health and, or safety including where necessary by changing the working and production methods, so as to assure an improvement in the level of protection afforded to workers with regard to health and safety:

Provided that such measures shall be integrated into all the activities and at all hierarchical levels within the undertaking and, or establishment.

(3) It shall be the duty of an employer to ensure that the planning and introduction of new technologies are the subject of consultation with the workers and, or their representatives, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers.

(4) An employer shall take appropriate steps to ensure that only workers who have received adequate and suitable training may have access to areas where there is serious and specific danger.

7. Without prejudice to other provisions of these regulations, where several employers, contractors and, or self-employed persons share a work place, the employers, the contractors and the self-employed persons shall co-operate in implementing the occupational health, safety and hygiene provisions and, taking into account the nature of the activities, shall co-ordinate their actions in matters which concern protective and preventive measures, and shall inform one another and their respective workers and, or workers' representatives of these risks.

Co-operation between employers, contractors and, or self employed persons.

8. An employer shall not levy or permit to be levied on any worker any charge or deduction in wages in respect of anything done or provided in the interests of occupational health, safety, hygiene or welfare in pursuance of any provisions of these regulations, or of any other regulations issued under the Act, or with respect to any measure related to occupational health, safety, hygiene or welfare at work.

Workers not to suffer any charge.

9. (1) In any workplace, an employer shall designate one or more persons having the necessary aptitude, capabilities, competence and training to assist him in undertaking the measures

Protective and preventive services and measures.

which are required to be taken in relation to the protection of occupational health and safety and the prevention and control of occupational risks:

Provided that where more than one person is so designated, or where external services are recruited, an employer shall make arrangements for ensuring adequate co-operation between them.

(2) Workers who have been designated to carry out the activities referred to in the preceding subregulation, may not be placed at any disadvantage because of their activities related to the protection of occupational health and safety and prevention of occupational risks.

(3) If, for whatever reason, the protective and preventive measures required by these regulations cannot be organised for lack of competent personnel in the undertaking and, or establishment, the employer shall enlist competent external services or persons having the necessary aptitudes and the necessary personal and professional means.

(4) Where the employer enlists such external services or persons, the employer shall inform them of the factors known or suspected to affect the health and safety of any person by the conduct of the undertaking.

(5) Where the employer enlists such external services or persons, the employer shall provide them with, and ensure access to, any such information as would be required to allow them to carry out their assigned tasks, including any information which should be given to the workers by virtue of these regulations.

(6) In selecting designated workers or the external services to be consulted, including the numbers required as well as the level of professional training and competence, an employer shall also take into consideration the size of the undertaking and, or establishment, the number of persons present at any time, the hazards to which the workers are exposed and their distribution throughout the entire undertaking and, or establishment, and in the case of workers designated from within the establishment, shall ensure that the time available for them to fulfil their functions and the means at their disposal are adequate.

(7) Where both designated workers and external services are appointed, the employer shall ensure the co-ordination of the activities that are to be carried out, and that they work together whenever necessary.

(8) It shall be the duty of an employer to ensure that designated workers or services are informed of the assignment of work to temporary workers to the extent necessary for the designated workers to be able to carry out adequately their protection and prevention activities for all the workers in the undertaking and, or establishment.

(9) The Authority may determine the capabilities, aptitudes and level and type of training required by designated persons for the adequate and suitable implementation of this regulation.

10. (1) It shall be the duty of every employer and of every self-employed person to carry out, or to ensure that is carried out, a suitable, sufficient and systematic assessment of all the occupational health and safety hazards which may be present at the place of work and the resultant risks involved concerning all aspects of the work activity. Such assessments shall consider the risks to the health and safety of workers and of self-employed persons to which they are exposed whilst at work, as well as the risks to the health and safety of other persons, including visitors to the place of work, which risks arise out of, or in connection with the work being carried out, or by the conduct of the undertaking: Risk assessments.

Provided that when carrying out such assessments, an employer and a self-employed person shall also take into consideration changes to the work activities being carried out and to the workplace, and shall take appropriate action.

(2) Where five or more workers are employed, an employer shall keep in his possession written or retrievable electronic copies of such assessments, and shall ensure that they are updated regularly.

(3) An employer and a self-employed person shall decide on the protective measures appropriate to the nature of the work being carried out which are required to be taken following these assessments and, if necessary, the protective equipment to be used.

(4) The assessments referred to in this regulation shall be reviewed whenever there is any major change in working conditions, or whenever the employer or self-employed person have reason to suspect that they are no longer valid.

11. (1) An employer shall establish and give effect to appropriate procedures to be followed in the event of serious and imminent danger, and for this purpose shall nominate a sufficient number of competent persons to implement those procedures to be followed when the circumstances or the situation require the evacuation of persons from the place of work. Serious and imminent danger.

(2) An employer shall:

- (a) as soon as possible inform all workers who are, or may be exposed to serious and imminent danger, of the risk involved, and of the steps taken, or to be taken as regards protection;
- (b) take action and give instructions to enable workers in the event of serious, imminent and unavoidable danger, to stop work and, or immediately to leave the work place and proceed to a place of safety;
- (c) refrain from asking workers, save in exceptional cases for reasons duly substantiated, to resume work in a working situation where there is still a serious and imminent danger.

(3) An employer shall take no action, disciplinary or otherwise, against a worker who has removed himself from a work situation which the worker had reasonable justification to believe presented an imminent and serious danger to his life or health, or against a

workers' representative who informs any worker of such work situation presenting an imminent and serious danger to life or health.

(4) An employer shall ensure that all workers are able, in the event of serious and imminent danger to their own safety and, or that of other persons, and where the immediate superior responsible cannot be contacted, to take the appropriate steps in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such danger. Their actions shall not place them at any disadvantage, unless they acted carelessly or there was negligence on their part.

Provision of information.

12. (1) It shall be the duty of an employer to provide workers and their representatives with comprehensible and relevant information on:

- (a) the risks to health and safety which are known to the employer or which have been identified by any risk assessment carried out by, or for the employer, and which are known to be present at the workplace in general, as well as in respect of each individual workstation, and in respect of any job, task or work activity assigned to be done;
- (b) the preventive and protective measures required with respect to all the risks identified;
- (c) the procedures to be followed in the event of serious and imminent danger present at work, including on the evacuation of workers, and on the arrangements made in respect of first aid, and fire-fighting:

Provided that where appropriate, an employer shall put up information signs which shall be placed at suitable locations indicating the procedures and arrangements made thereon, including the names of the person or persons responsible, their location within the establishment and how they can best be contacted in times of need.

(2) The employer shall take appropriate measures so that employers of workers from any outside undertakings and, or establishments engaged in work in the undertaking and, or establishment of the employer, receive adequate information on matters which could affect occupational health and safety, and such information shall be provided to the workers in question.

(3) The employer shall take appropriate measures so that workers with specific functions in protecting the safety and health of workers, or workers' representatives with specific responsibility for the safety and health of workers shall be allowed to carry out their functions, and in particular, shall have access to:

- (a) any risk assessment and protective measures referred to previously; and
- (b) all information with respect to occupational health and safety given to the employer by outside agencies contracted by him on any matter regarding

occupational health and safety, as well as by an officer.

13. (1) It shall be the duty of an employer to consult workers in his employ and, or the workers' health and safety representatives, in advance and in good time, for the purpose of making and maintaining arrangements which will enable the employer and the workers to co-operate fully and effectively in promoting and developing preventive and protective measures by which to ensure the health, safety and welfare at work, and to ascertain the effectiveness of such measures.

Consultation and participation of workers.

(2) Without prejudice to the generality of the preceding subregulation, workers shall choose from amongst their number a representative or representatives as the case may be, hereinafter referred to as the workers' representatives, to represent them in consultations pursuant to this regulation with their employer:

Provided that after due consultation between an employer and his workers the number of workers is deemed to be insufficient so as to permit the appointment of a representative, the employer shall consult, and allow the participation of all the workers on matters referred to in subregulation (5).

(3) Where in a place of work the workers fail for whatsoever reason, to choose from amongst their number a person to represent their interests on matters concerning occupational health and safety, the employer shall appoint a person or a number of persons to act as the workers' health and safety representative, who shall also have the right to act on the workers' behalf after due consultation.

(4) A workers' representative shall not carry out, or be involved with, any work which can give rise to a conflict of interest in the discharge of his functions pursuant to these regulations, and in discharging such functions, the workers' representative shall act with the sole objective of safeguarding the workers' health and safety.

(5) Workers and their representatives shall have the right to make representations with, and to make proposals to their employer on any matter which may affect the health, safety and welfare at work, including, but not limited to -

- (a) measures which may substantially affect health and safety;
- (b) the designation of workers having specific functions for first aid, fire-fighting and the evacuation of workers in case of serious and imminent danger, and on the method of selection of workers' representatives;
- (c) those risk assessments required to be carried out by an employer and their results, the preventive and protective measures required to be taken;
- (d) occupational accidents, injuries and cases of occupational ill-health occurring at the employer's place of work;
- (e) the enlistment, where and when appropriate, of those

competent services or persons outside the undertaking and, or establishment, as referred to in regulation 9(3);

- (f) all information required to be given to workers by virtue of these regulations and of any other regulations issued under the Act;
- (g) the planning and organisation of the training required to be given to workers by virtue of these regulations and by other regulations issued under the Act.

(6) Workers' representatives shall have the right to ask the employer to take appropriate measures and to submit proposals to him to that end to mitigate hazards for workers and, or to remove sources of danger.

(7) Workers and the workers' representatives may not be placed at a disadvantage because of any activity taken pursuant to any matter relating to the protection of occupational health and safety.

(8) Employers shall allow workers' representatives with specific responsibility for occupational health and safety adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from these regulations.

(9) Workers and, or their representatives are entitled to make representations to the Authority if they consider that the measures taken, and the means employed by the employer are inadequate for the purposes of ensuring health and safety at work.

(10) Workers' representatives must be given the opportunity to submit their observations during visits by officers.

Training of
workers and
representatives.

14. (1) The employer shall ensure that each worker receives adequate training on health and safety, in particular in the form of information and instructions specific to the workstation and to the task assigned:

- (a) on recruitment;
- (b) in the event of a transfer or a change of job or task;
- (c) in the event of the introduction of new work equipment or a change in equipment;
- (d) on the introduction of any new technology;
- (e) on the introduction of new work practices.

(2) The training referred to in the preceding subregulation shall be adapted to take account of new or changed risks, and repeated periodically where necessary.

(3) An employer shall ensure that workers from outside undertakings and, or establishments engaged in work in his undertaking and, or establishment have in fact received appropriate instructions regarding health and safety risks during their activities in his undertaking and, or establishment.

(4) Workers' representatives shall be entitled to appropriate training.

(5) Training that is commissioned by an employer and given to workers or to workers' representatives by virtue of these regulations shall be at the expense of the said employer.

(6) The training given to workers and to the workers' representatives must take place during working hours.

15. (1) It shall be the duty of each worker to take care as far as possible of his own safety and health as well as that of other persons who can be affected by his acts or omissions at work in accordance with the training and the instructions given by the employer.

Workers'
obligations.

(2) Without prejudice to the generality of the foregoing, it shall be the duty of a worker to:

- (a) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;
- (b) make correct use of the personal protective equipment supplied to him and, after use, return it to its proper place;
- (c) refrain from disconnecting, changing or removing arbitrarily safety devices fitted to machinery, apparatus, tools, plant and buildings, and to use such safety devices correctly;
- (d) immediately inform the employer and, or the workers with specific responsibility for the safety and health of workers of any work situation he has reasonable grounds for considering that it represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements;
- (e) co-operate with the employer and with workers having a specific responsibility for the safety and health of workers, for as long as may be necessary to enable to be carried out any tasks or requirements imposed by the Authority to protect the safety and health of workers at work;
- (f) co-operate with the employer and, or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity.

16. (1) A worker is entitled to undergo health surveillance at regular intervals, and for this purpose an employer shall ensure that workers are provided with health surveillance appropriate to the health and safety risks at work, and shall make all arrangements as are required.

Health
surveillance.

(2) Without prejudice to the generality of the preceding subregulation, health surveillance shall be carried out whenever the risk assessments required to be performed by an employer reveal:

- (a) an identifiable disease or adverse health condition related to the work involved;
- (b) the likelihood that the disease or condition may occur under the particular conditions of work.

(3) After a worker undergoes health surveillance as is required under this regulation, the employer shall only be entitled to be given by the person carrying out the surveillance, such medical details as are directly related to the work being carried out or to the conditions of work, provided that such information is given under strict confidential cover.

Risk groups and vulnerable groups.

17. It shall be the duty of an employer to take all measures and precautions so as protect particularly sensitive risk or vulnerable groups against the dangers which specifically affect them.

Temporary workers.

18. (1) An employer shall ensure that temporary workers are afforded the same level of occupational health and safety protection as that of other workers in the user undertaking and, or establishment, and for this purpose shall remain responsible, for the duration of the assignment, for the conditions connected with safety, hygiene and health at work governing performance of the work:

Provided that the existence of an employment relationship which is particular or specific to a worker by reason of his being a temporary worker, shall not justify different treatment with respect to working conditions inasmuch as the protection of safety and health at work are involved, especially with regards to access to personal protective equipment.

(2) An employer shall provide temporary workers with comprehensible information on -

- (a) any special occupational qualifications or skills required to be held by that worker as to allow him to work safely; and
- (b) any health surveillance required to be provided under these regulations or under any other regulations issued under the Act;
- (c) the specific features of the job to be filled by the temporary worker, including any additional specific risks, insofar as these features are likely to affect occupational health and safety:

Provided that such information shall be given to the temporary worker before the said worker commences his duties:

Provided further that where indicated by reason of any risks to health and safety arising out of, or present during the job to which a temporary worker has been assigned work, an employer shall provide sufficient training appropriate to the particular characteristics of the job, taking into account the temporary worker's qualifications and experience.

(3) Where the work to be assigned to a temporary worker requires medical surveillance by virtue of the work being

associated with severe risks to health and, or safety, an employer shall under no circumstance allow that work to be carried out by a temporary worker unless special medical surveillance is provided which is appropriate to the work to be assigned:

Provided that where indicated, an employer shall also be responsible for ensuring that the special medical surveillance extends beyond the end of the employment relationship of the worker concerned.

(4) An employer shall inform a temporary employment business of the occupational qualifications required and the specific features of the job to be filled when requesting temporary workers to be provided by the temporary employment business, and such temporary employment business shall bring all these facts to the attention of the workers concerned. The temporary employment business shall also ensure that such information is entered into any contract signed with the employer for the provision of temporary workers, which, *inter alia*, shall also include details of any medical surveillance required.

19. (1) No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of occupational health and safety in pursuance of any provisions of these regulations or any other provisions issued under the Act.

Duty not to interfere and misuse.

(2) No person shall tamper with any equipment or appliance provided for the protection of workers as to render such equipment or appliance ineffective or unsuitable for the purpose it was originally intended, or to misuse anything provided as aforesaid, or to do anything whatsoever that can endanger the health or safety of workers.

20. In any proceedings for an offence under these regulations consisting of a failure to comply with a duty or requirement to do something, or to do something so far as is reasonably practicable, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

Onus of proof.

21. (1) Any breach of any provision of these regulations shall be deemed an offence.

Offences.

(2) Any person who knowingly or recklessly interferes with the process of providing a safe and healthy place of work, shall be guilty of an offence.
