

● Medico-legal advice

Health and safety at work



Dermot Casserly, Partner, Beauchamps Solicitors, outlines the rights and responsibilities of employers and employees under Irish health and safety legislation

On January 4, 2010, the Minister for Labour Affairs Dara Calleary welcomed significant improvements in workplace health and safety and the lowest number of reported workplace fatalities (43) in 20 years.

He also commented that it was very encouraging to see a downward trend when one considers that the workforce has significantly increased in the past 20 years.

A range of health and safety legislation applies to workplaces in Ireland. The Safety, Health and Welfare at Work Act 2005 (the Act) is the main governing Act, however there are also numerous regulations that implement the relevant EU Directives in this area. The Act applies to all employers, self-employed and employees in all places of work.

The regulations can be general in that they apply to all employers – for example, the

Safety, Health and Welfare at Work (General Application) Regulations 2007. Or they can be sector specific – for example, the Safety, Health and Welfare at Work (Biological Agents) Regulations 1994 (as amended) set down the minimum requirements for protecting workers from the health risks associated with biological agents in the workplace.

The Health and Safety Authority (HSA) is the statutory body responsible for enforcing the law and promoting workplace health and safety. It carries out routine inspections and investigates accidents at work. It also publishes guidelines on the legislation.

There are no specific regulations for doctors, nurses or general healthcare workers, although some of the workplace health publications on, for example, manual handling and display-screen equipment would be particularly relevant.



There is, however, a new plan for the healthcare sector that aims to enhance employee safety and wellbeing throughout the sector (see more below).

Employers' duties

Extensive duties are set out in the Act. In general, all employers must take steps 'so far as it is reasonably practicable' to ensure the safety, health and welfare at work of all employees and other persons at an em-

ployer's workplace. In a hospital setting, this would mean that proper procedures are in place to minimise risks to staff of the many occupational health and safety hazards, from the disposal of medicinal waste to employees' personal safety in Emergency Departments.

Employers must also have a written safety statement, which specifies how they are going to manage the safety, health and welfare of their

employees such as the hazards identified and risks assessed; the protective and preventive measures taken and the resources provided; the emergency plans in place; and the duties of the employees. The statement has to be brought to the attention of employees at least annually (or when there are any material changes) and to new recruits.

If an employer who employs three or fewer employees is engaged in an activity for which there is a code of practice, they can fulfil their duty in relation to safety statements by complying with such a code of practice.

Employees' duties

The main duties with which an employee at work must comply are as follows. They must:

- take reasonable care to protect the safety of themselves and others who might be affected by their acts and omissions;
- co-operate with their employer to enable compliance with the relevant statutory provisions, for example, by attending training;
- not engage in any improper conduct or dangerous behaviour;

- make correct use of any article or substance provided for use by or for the protection of the employee, including protective clothing and equipment;
- report to their employer about any work method that might endanger themselves or others.

Five-year plan for health

A new Five-Year Plan for the Healthcare Sector was launched in 2009 and sets out recommended objectives and priority actions to be taken by the HSA, acting alone or in conjunction with other agencies.

The overall aim of this five-year strategy (2010-2014) is to work with the healthcare sector in developing a culture of safety and in reducing injury and illness among its workforce.

It can be accessed at www.hsa.ie/eng/Publications_and_Forms/Publications/Health/New%20Five%20Year%20Plan%20for%20the%20Healthcare%20Sector.pdf

● **Dermot Casserly**, Partner, Beauchamps Solicitors. Email: d.casserly@beauchamps.ie