

SECTION 20: SAFETY STATEMENT

Pursuant to Section 20 (1) of the Safety, Health and Welfare at Work Act 2005, employers must have a safety statement. This statement will be based on the identification of hazards and the risk assessment carried out pursuant to Section 19 of the 2005 Act. It is a protective and preventative measure specifying the manner in which the safety, health and welfare at work of employees shall be secured and managed.

Section 20 (2) sets out what the safety statement must specify. The specifications are as follows: -

- the hazards and risks assessed;
- the protective and preventative measures taken and the resources provided for protecting safety, health and welfare at the place of work to which the safety statement relates;
- the plans and procedures to be followed and the measures to be taken in the event of an emergency or serious and imminent danger, in compliance with Sections 8 and 11 of the 2005 Act;
- the duties of employees regarding safety, health and welfare at work, including co-operation with the employer and any persons who have responsibility under the relevant statutory provisions in matters relating to safety, health and welfare at work;
- the names and, where applicable, the job title or position held of each person responsible for performing tasks assigned to him or her pursuant to the safety statement;
- the arrangements made regarding the appointment of safety representatives, and consultation with and participation by employees and safety representatives, in compliance with Sections 25 and 26 of the 2005 Act, including the names of the safety representative and the members of the safety committee, if appointed.

In relation to the usage of the safety statement, Section 3 specifies that the employer must bring the safety statement to the attention of its employees, at least annually and, at any other time, following its amendment in accordance with this section. It must also be brought to the attention of newly-recruited employees upon commencement of employment as well as to the attention of any other persons at the place of work who may be exposed to any specific risk to which the safety statement applies. Section 3 also specifies that the safety statement must be in a form, manner and language that is reasonably likely to be understood. This is very important if employees are non English

speaking or if employees have difficulty with reading, etc. There is no obligation to record the communication of the safety statement to employees and those affected. However, it is preferable that an employer do so in the event of a personal injuries* action arising.

Section 20 (4) deals with specific tasks being performed at the place of work that pose a serious risk to safety, health or welfare. In these circumstances, the employer shall bring to the attention of those affected extracts of the safety statement setting out the risk identified, the risk assessment and the protective and preventative measures taken in accordance with relevant statutory provisions in relation to that risk.

Section 20 (5) imposes an obligation on the employer to review the safety statement, taking into account the risk assessment carried out in accordance with Section 19 of the 2005 Act, where there have been significant changes in relation to what the safety statement refers, there is another reason to believe that the safety statement is no longer valid or an inspector, during the course of an inspection, investigation, examination or inquiry directs that the safety statement be amended within 30 days of the giving of that direction and following review, the employer must amend the safety statement, as appropriate.

Section 20 (6) deals with a scenario where an employer contracts another employer for services. In those circumstances, the employer shall require that the contracted employer be in possession of an up to date safety statement, as required under this section.

Section 20 (7) requires a copy of the safety statement to be kept available for inspection at or near every place of work to which it relates while work is being carried out there.

Section 20 (8) specifies that it shall be sufficient for an employer employing 3 or less employees to observe the terms of the code of practice, if any, relating to safety statements which applies to the class of employment covering the type of work activity carried on by the employer.

Section 20 (9) sets out that every person to whom Sections 12 or 15 of the 2005 Act applies shall prepare a safety statement in accordance with this section to the extent that his or her duties under those sections may apply to persons other than his or her employees. This relates to the general duties of an employer to persons other than it's

employees and the general duties of a person in control of a place of work.

It is imperative that an employer with more than 3 employees have a written safety statement containing all of the requirements specified under Section 20 (2) of the 2005 Act, as set out above. It must be communicated to employees and it must be communicated in a manner and form that is likely to be understood by employees. It should be kept under review and updated when appropriate. As set out above, there is no requirement to record the communication of the safety statement to employees. However, it is advisable to do so as, in the event of a personal injury* claim* arising, it will assist your insurers with your Defence.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**