

Section 8: General Duties of the Employer*

The Safety, Health and Welfare at Work Act 2005 sets out some important definitions and duties in respect of the statutory obligations placed on employers in Ireland.

Firstly, the Act sets out the definition of an employer in Section 2 (1): -

“In relation to an employee –

- a) means the person with whom the employee has entered into or for who the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment,*
- b) includes a person (other than an employee of that person) under who’s control and direction and employee works,*
- c) includes where appropriate, the successor of the employer or an associated employer of the employer,”*

The next important definition in the Act is the definition of “reasonably practical”. This is an important definition as it very clearly sets out the standard to which an employer will be held under the Act. Section 2 (6) defines reasonably practicable as follows: -

“For the purposes of the relevant statutory provisions, “reasonably practicable”, in relation to the duties of an employer, means that an employer has exercised all due care by putting in place the necessary protective and preventative measures, having identified the hazards and assessed the risks to safety and health likely to result in accidents or injury to health at the place of work concerned and where the putting in place of any further measures is grossly disproportionate having regard to the unusual, unforeseeable and exceptional nature of any circumstance or occurrence that may result in an accident at work or injury to health at that place of work.”

Section 8 then sets out the duties imposed on employers under the Act. Section 8(1) sets out as follows: -

“Every employer shall ensure, so far as reasonably practicable, the safety, health and welfare at work of his or her employees”.

Section 8 (2) (a) – (l) then extends this duty to cover a range of the following activities: -

- a) *Manage and conduct work activities in such a way to ensure the safety, health and welfare at work of his or her employees.*
- b) *Manage and conduct work activities in such a way to ensure prevention of any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk.*
- c) *Provide a safe place of work, including safe access and egress, and safe plant and machinery.*
- d) *Ensure that those using any article or substance or those exposed to noise, vibration or ionising or other radiations or any other physical agent are not exposed to risk of injury to health.*
- e) *Provide safe systems of work.*
- f) *Providing and maintaining welfare facilities for employees.*
- g) *Provide information, instruction, training and supervision to ensure the safety, health and welfare of employees.*
- h) *Carry out risk assessments and prepare a safety statement.*
- i) *Provide protective clothing and equipment.*
- j) *Prepare plans and procedures to be used in emergency or dangerous situations.*
- k) *Report accidents and dangerous occurrences to the HSA.*
- l) *Obtain the services of a competent person.*

It is in an employer's best interests to be in compliance with the Safety, Health and Welfare at Work Act 2005 in an effort to keep injury and illness in its work force at a minimum. This will create a good health and safety culture within the organisation. In addition, it will lead to a reduction in any sick leave absences, minimum exposure to personal injury* claims and happier employees which contributes to good productivity and revenue for any business owner.

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