



## HEALTH AND SAFETY IN EMPLOYMENT ACT 1992

And the amendments made by the HEALTH AND SAFETY IN EMPLOYMENT AMENDMENT ACT 2002.

### HSE Implications on Driving:

The HSE Amendment Act was released on 5th May 2003. It categorically states 'mobile' workers now come under the act, and vehicles are specifically stated as being a workplace. As a result any injuries to both driver and passengers, and/or any health issues relating to a company vehicle, will be regarded as workplace injuries/issues. These are irrespective of whether they are a regular or only occasional vehicle user. Put simply, Health and Safety Systems now have to encompass the company car fleet.

Employers will now be expected to look closely at their vehicle fleets. They will be required to look at the uses to which they are put, identify hazards and formulate management plans, regularly service and check vehicles, and test safety features. Jointly, they will be required to focus on the drivers themselves; checking and monitoring how long employees spend driving, cellphone use while driving, correct seatbelt application, driver supervision, training and periodic reviews.

### General Information About the Entire Act:

The Act is about making work activities safe and healthy for everyone connected with them.

It seeks to achieve that firstly by recognising that:

- Constructive employment relationships generate safe and healthy workplaces.
- Those involved in the work (employers, employees etc) are usually best placed to decide on the particular measures to make their own workplace safe.
- The only sure way to do that is by systematic management of all hazards.

These principles are supported by specific arrangements that:

- Reinforce the primary responsibility as being that of the employer or other person responsible for the work.
- Acknowledge that employees too have responsibilities to themselves and others.
- In bringing those two sets of responsibilities together, require good faith cooperation between employers and employees.
- Have the expectation that employee participation in health and safety issues will bring to bear readily available knowledge on the issues.

The Act does not set out to tell people how to make particular work situations safe and healthy.

Rather, it requires them to approach that systematically but flexibly, with the ability to draw on generalist information in Regulations, Codes of Practice, and Best Practice Guidelines, as well as from their workforce and specialist OSH personnel.

The standard that they have to achieve is that of having taken all reasonably practicable steps to make work safe – what can reasonably be expected given the circumstances, state of knowledge, resources etc. They don't have to deal with things that they couldn't possibly have known about or control.

### Excerpt from the HSE Act:

**"Place of work"** means a place (whether or not within or forming part of a building structure, or vehicle) where any person is to work, is working, for the time being works, or customarily works, for gain or reward; and, in relation to an employee, includes a place, or part of a place, under the control of the employer (not being domestic accommodation provided for the employee),--

- Where the employee comes or may come to eat, rest, or get first-aid or pay; or
- Where the employee comes or may come as part of the employee's duties to report in or out, get instructions, or deliver goods or vehicles; or

Through which the employee may or must pass to reach a place of work:

**"At work"**, in relation to any person, means present, for gain or reward, in the person's place of work

**“Hazard” —**

- means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside a place of work) that is an actual or potential cause or source of harm; and
- includes—
  1. a situation where a person’s behaviour may be an actual or potential cause or source of harm to the person or another person; and
  2. without limitation, a situation described in subparagraph (i) resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person’s behaviour

**“Health and safety committee”** means a committee established to support the ongoing improvement of health and safety in a place of work

**Information for employees generally and health and safety representatives:**

1. Every employer shall ensure that every employee who does work of any kind, or uses plant of any kind, or deals with a substance of any kind, in a place of work has been given, and is provided with ready access to, information in a form and manner that the employee is reasonably likely to understand about--
  - a. What to do if an emergency arises while the employee is doing work of that kind, using plant of that kind, or dealing with substances of that kind, in that place; and
  - b. All identified hazards to which the employee is or may be exposed while doing work of that kind, using plant of that kind, or dealing with substances of that kind, in that place, and the steps to be taken to minimise the likelihood that the hazards will be a cause or source of harm to the employee; and
  - c. All identified hazards the employee will or may create while doing work of that kind, using plant of that kind, or dealing with substances of that kind, in that place, and the steps to be taken to
  - d. minimise the likelihood that the hazards will be a cause or source of harm to other people; and
  - e. Where all necessary safety clothing, devices, equipment, and materials are kept.
2. An employer must ensure that all health and safety representatives in a place of work have ready access to sufficient information about health and safety systems and health and safety issues in the place of work to enable the representatives to perform their functions effectively.

**Purpose of Part 2A**

The purpose of this Part is to require the participation of employees in processes relating to health and safety in the place of work so that—

- all persons with relevant knowledge and expertise can help make the place of work healthy and safe; and when making decisions that affect employees and their work, an employer has information from employees who face the health and safety issues in practice.

**A system may include a provision increasing or decreasing the maximum —**

- number of days’ paid leave that the employer is required to allow a health and safety representative to take for health and safety training under section 19E(1):  
total number of days’ paid leave that the employer is required to allow health and safety representatives to take for health and safety training under sections 19E(2) and 19F.