

[LEGAL NOTICE NO. 168]

HEALTH AND SAFETY AT WORK ACT, 1996
(No. 4 OF 1996)

**HEALTH AND SAFETY AT WORK (REPRESENTATIVES AND COMMITTEES)
REGULATIONS 1997**

PURSUANT to Section 62 of the Health and Safety at Work Act, 1996, the Minister for Labour and Industrial Relations, acting on the recommendation of the Permanent Secretary, after consultation with the National Occupational Health and Safety Advisory Board, hereby makes the following Regulations—

Short title

1. These Regulations may be cited as the Health and Safety at Work (Representatives and Committees) Regulation 1997.

Commencement

2. These Regulations shall come into force on the 18th day of December, 1997.

Application

3. These Regulations shall apply to all workplaces to which the provisions of Part III of the Act apply with respect to workplace arrangements.

Definition

4. "employers representatives", in relation to a health and safety committee, means the members of the committee who are nominated by the employer of the workers employed at the workplace at which the committee is established.

"workers organisation", means any established organisation to represent the interests of workers and includes any recognised unions.

"workers representatives", in relation to a health and safety committee, means the members of the committee who are elected by the workers employed at the workplace at which the committee is established.

In this Regulation 'the Act' means the Health and Safety at Work Act 1996.

For all other definitions, reference should be made to Part I Section (5) of the Act.

Designated work groups

5.-(1) A worker may ask the employer to establish designated work groups of workers in respect of the workplace.

(2) The composition of the designated work groups is to be determined by negotiation between the employer and workers.

(3) The employer shall ensure that negotiations to determine the composition of the designated work groups start within 14 days after a request is made under sub-regulation (1) of this Regulation

(4) The employer may initiate negotiations for the establishment of designated work groups at a workplace.

(5) Where the employer and workers at a workplace are unable to reach agreement by negotiation under sub-regulation (2) of this Regulation the employer or any worker may at any time require an Inspector to attend at the workplace and to determine the groups of workers which shall be the designated work groups at the workplace. The Inspectors decision shall be binding on the parties.

(6) In determining the designated work groups the employer and workers or the inspector, as the case may be, shall have regard for

- (a) the number of workers at the workplace;
- (b) the nature of each type of work performed at the workplace;
- (c) the number and grouping of the workers who perform the same or similar types of work;
- (d) the areas at the workplace where each type of work is performed;
- (e) the nature of any hazards at the workplace; and
- (f) any overtime or shift working arrangements at the workplace.

(7) All the workers at a workplace may be determined to be one designated work group.

(8) The composition of designated work groups at a workplace may be varied at any time by negotiation between the employer and the workers.

(9) If agreement cannot be reached on any proposal to vary the composition of designated work groups, the employer or any worker may at any time require an Inspector to attend at the workplace and to determine the variation in the composition of the work groups. The Inspector's decision shall be binding on the parties.

(10) The employer shall ensure—

(a) that a written list of the designated work groups at the workplace is prepared and kept up to date; and

(b) that a copy of the list is displayed in a prominent place in the workplace to which workers have easy access.

(11) If at any workplace no action has been taken under sub-regulation (1) or sub-regulation (4) of this Regulation the employer shall initiate discussions with the workers at the workplace, or any representative thereof, in order to commence negotiations under sub-regulation (2) or to require the attendance of an Inspector under sub-regulation (5) of this Regulation.

(12) A reference to a worker in this Regulation includes a reference to any person or any workers organisation authorised by the worker to act as his or her representative for the purposes of this Regulation.

Establishment of Health and Safety Committees

6. An employer who employs twenty or more workers at a workplace shall establish a health and safety committee for that workplace.

Composition of Committee

7. (1) The composition and size of a health and safety committee established at a workplace shall be determined by agreement between the employer of the workers employed at the workplace and a representative or representatives elected at a meeting of the workers employed at that workplace.

(2) For the purposes of the proceedings of a health and safety committee a quorum of the committee is a number ascertained by dividing the number of members of the committee by two, ignoring any fraction resulting from the division and adding one. Provided that, a quorum shall include both employer and worker representatives.

(3) The maximum number of members of a health and safety committee shall be as is determined in the manner referred to in sub-regulation (1): Provided that a committee shall not be less than 6 members.

(4) In order to ensure effective representation for all workers employed at a workplace, the following factors in respect of the workplace are to be taken into account in determining the composition and size of a health and safety committee—

(a) the operation of various shifts;

(b) the various work groups;

(c) geographical location;

(d) variety of different occupations;

(e) composition of the workforce; and

(f) the degree and character of the hazards present at the workplace.

(5) Upon expiration of the term of office of a workers' representative on a health and safety committee, an election to fill the vacant office shall be held in the manner and at the time determined at the meeting referred to in sub-regulation (1) or at a subsequent meeting of the workers employed at the workplace concerned.

(6) Upon the occurrence of a casual vacancy in the office of a workers' representative on a health and safety committee, the workers employed at the workplace shall appoint a worker to the vacant office for the balance of the predecessors term of office.

(7) Subject to this Regulation, a workers' representative on a health and safety committee shall hold office for a period of two years. Provided a representative may be re-elected at the end of the two year term.

Election of Worker Representatives

8.-(1) The members of a designated work group may elect one of the members of the group to be the group's health and safety representative.

(2) All workers in a designated work group are entitled to vote in an election.

(3) If the members of a designated work group cannot agree on how an election is to be conducted, any member of the group may ask the Permanent Secretary to appoint an Inspector to conduct the election.

- (4) The Permanent Secretary may appoint an Inspector to conduct the election.
- (5) If at an election there is only one candidate—
 - (a) it shall not be necessary to conduct a ballot; and
 - (b) that candidate is to be the health and safety representative for the designated work group.
- (6) There shall be only one health and safety representative for each designated work group. Provided that the workers may elect a deputy representative to act in the absence of the elected representative.
- (7) A person ceases to be a health and safety representative upon-
 - (a) ceasing to be a worker in the designated work group;
 - (b) the designated work group; in respect of which the person was elected, being varied under regulation 4 hereof; or
 - (c) failing to be re-elected.

Nomination of Employer Representatives

- 9.-(1) The employers representatives of a health and safety committee shall be nominated by the employer-
 - (a) as soon as practicable after the establishment of the committee; and
 - (b) thereafter as the occasion requires.
- (2) The employer may also nominate a deputy representative to act in the absence of the nominated representative.

Election of Committee Chairperson

10. The workers representatives on a health and safety committee shall elect one of their members to be chairperson of the committee forthwith after the establishment of the committee and thereafter as the occasion requires.

Procedures of Committees

- 11.-(1) The procedure for the calling of meetings of a health and safety committee and for the conduct of business at those meetings shall, subject to this Regulation, be as determined by the committee.
- (2) The following provision apply to each health and safety committee-
 - (a) the committee shall meet at least once every three months and all time spent for this purpose shall be treated as working hours.
 - (b) the chairperson of the committee may call a meeting at any time.
 - (c) the chairperson shall circulate an agenda to all members of the committee not less than three working days prior to any meeting. Provided an agenda shall not be required for emergency meetings.
 - (d) minutes of each meeting are to be kept by a person designated by the committee for the purpose. The minutes are to be retained for not less than seven years.
 - (e) the records of the committee (including minutes of meetings) shall be placed in the custody of the employer for safekeeping.
 - (f) members of the committee may have access to all records of the committee, including minutes of meetings.
 - (g) copies of the minutes of meetings shall be displayed at the workplace at which the committee is established in prominent places where workers may read them.

Training of Health and Safety Representatives and Committee members

- 12.-(1) For the purpose of sections 17 and 20 of the Act, the training to be provided to health and safety representatives and members of an occupational health and safety committee established at a place of work shall be provided by the employer of the persons employed at that place of work without loss of pay.
- (2) The training shall be provided as soon as practicable after a representative has been nominated by the employer or a committee member has been elected by the workers and shall consist of-
 - (a) health and safety representatives and committee functions
 - (b) applicable health and safety regulations
 - (c) inspection-hazard identification, assessment and control
 - (d) accident and complaint investigation
 - (e) problem solving; and
 - (f) effective communication

(3) Any training provided shall be in accordance with the Health and Safety at Work (Training) Regulations in addition to those matters identified in sub-regulation (2).

Display of Act and Regulations

13. The employer of workers shall—

- (1) at the workplace, display in prominent place to which all the workers have access; or
- (2) make available to the workers employed in that workplace, a copy of sections 16 to 25 of the Act and these Regulations.

Offences and Penalties

14. Any person who contravenes a provision of these Regulations commits an offence and, unless otherwise provided, shall be liable for a fine not exceeding \$1,000.00 in the case of a worker or \$20,000.00 in any other case.

Made this 18th day of December, 1997

V. W. LOBENDHAN
Minister for Labour and Industrial Relations