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### Penalties for breaches of Irish Work Health/Safety Law will be up to €3 million

By Finfacts Team  
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*'Penalties for Breaches of Safety Law will be up to €3 Million'-  
Killeen*

*'On the spot fines for employers and employees will be  
introduced'*

Minister of State Tony Killeen, T.D., today announced the Commencement of the Safety, Health and Welfare at Work Act 2005. The Act is a major piece of new legislation in the area of safety and health in the workplace. It replaces the 1989 Act, which established the Health and Safety Authority (HSA).



Speaking at the signing of the Order to commence the new Act, which will be effective from 1<sup>st</sup> September, Killeen said "the maximum fine on indictment for breaches of health and safety law will be €3 million plus a term of imprisonment of up to 2 years. Company directors and managers may also be held liable where they are found to have contributed to any offence".

The primary focus of this Act is on the prevention of deaths and injuries in the workplace. Safety is paramount. Killeen said, "this Act is a serious wake-up call to employers who don't do enough to prevent accidents at their places of employment. Workers also have a duty not to endanger themselves or others and to be alert to dangerous situations."

"We have achieved much since the 1989 Act, which will be replaced by this new updated legislation. In overall terms there has been a 25% reduction in the rate of deaths since 1989 but the figures are still far too high; 70 killed in 2003, 50 in 2004 and 34 to date this year.

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“I am concerned to learn from the HSA that their evidence is that up to one half of the small employers in this country do little or certainly not enough to ensure a safe workplace.

“The most common causes of accidents are slips, trips and falls at work and lifting habits which result in back injuries. Tidy workplaces cost little. Training in safe lifting posture is available; and supervision is important”, Killeen added.

Welcoming the coming into force of the new Act, Tom Beegan, CEO of the Health and Safety Authority said “I believe that the new Health, Safety and Welfare at Work Act 2005 is a dynamic and modern piece of legislation which is very timely. I very much welcome the increase in fines and penalties as I believe strongly that the level of fines and penalties should reflect the gravity which society attaches to breaches of the law, particularly those which result in death or injury.

We are committed to engaging in a process of consultation with key players to make it user friendly to employers and workers, especially those in small companies. We will also be holding 27 seminars across the country starting in August as part of a major awareness-raising campaign to mark the beginning of this new era in health and safety.”

The growth of Ireland’s economy over the past decade or so means that there are more people at work (2m now, 1.2m in 1989) in the country than ever before. This in turn has brought a new focus to bear on our working environment. It is right that the development of a modern industry and of a modern industrial infrastructure should be accompanied by a modern set of rules and laws governing the obligations of employers and employees alike in ensuring safety in the workplace.

The HSA is empowered under the Act to compile and publish a list of the names and addresses of businesses where a fine has been imposed by a court, a prohibition notice served by the HSA or where a court has made an interim or interlocutory order. Minister Killeen said, “this is an important step in the direction of the public’s right to know”.

In regard to testing for intoxicants the Act imposes a requirement on employees to submit to tests under the supervision of a medical practitioner, if reasonably required by an employer. Minister Killeen said, “the requirement for testing for intoxicants will not come into force until the HSA has consulted the Social Partners and other interested groups. It is intended that the regulations, which have to be made, will bring in the testing requirement in safety critical situations and then only on a sectoral basis”. Minister Killeen added, “it is important to allay fears that testing will be a requirement across all employments. There is no such intention.”

One of the innovations in the Act is the power to make regulations for the imposition of on-the-spot fines for breaches of the health and safety code. Minister Killeen said, “I am asking the Board of the HSA to immediately undertake consultations with trade unions and employer representatives and to come back to me with a report on what are considered to be the appropriate areas for the levying of on-the-spot fines. The Act places duties on both employers and workers alike and I envisage that the on-the-spot fines will apply to both where a HSA inspector finds clear breaches of the health and safety code”.

There is also an innovation in the Act which removes the requirement on an employer with 3 or fewer employees to have an up-to-date safety statement. Instead, it will be sufficient to comply with a code of practice which will be developed by the HSA. Commenting on this, Minister Killeen said, “I am also asking the HSA Board to undertake an urgent assessment of such a code of practice and to make proposals. I envisage that the new code will deal with the specific safety problems of

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small employers and their employees. It will reduce the paperwork and be more practical and down to earth while at the same time ensuring a safer and healthier workplace. I hope that it will be possible to tailor the code to particular sectors like service and maintenance and farming.”

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The third major innovation is the provision in the Act which facilitates trade unions and employers in an industry or sector to get together to agree practical guidance on health and safety. Such an agreement can be recognised by the HSA and taken account of in enforcement.

There is also protection in the Act for employees against dismissal or penalisation for carrying out their duty in regard to safety matters. Minister Killeen said, “where an employee is victimised or otherwise penalised for their legitimate health and safety activities the Act provides for redress. An employee is entitled to appeal to a Rights Commissioner for a determination. In the event of a further appeal, this can be heard by the Labour Court”.

In conclusion Minister Killeen said that he would like to draw attention to other matters under the Act which are coming up in the next few months. “My most immediate concern”, Killeen said, “will be to complete and sign into law the Construction Regulations and the General Application Regulations. Both sets of regulations are in the final phase of completion by the HSA. The construction regulations will complete the implementation of current EU Directives and bring the regulation of the industry into line with requirements under the new Act. The general application regulations will also modernise the existing code and deal with health and safety matters relating to signage, worker protective equipment, manual handling, electricity, first aid, night and shift work, pregnant employees and young persons.”

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