

**Health and Safety Authority**

**Rules and Practices**

**Freedom of Information Acts 1997 and 2003**

**Section 16 Reference Book**

## **FOREWORD**

This manual is intended to facilitate the public in understanding how the Authority makes decisions under enactments and schemes that it operates. It does this by outlining how these schemes operate and by detailing the relevant legislation, regulations and instructions to staff on the operation of schemes.

The functions of the Authority, the services it provides and the classes of records held by the Authority are outlined on the Authority's Section 15 Reference Book, which accompanies this manual. All the information in these manuals can be accessed on our website (<http://www.hsa.ie>).

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## **1. INTRODUCTION**

The Authority is the national body in Ireland with responsibility for securing the safety, health and welfare of all persons at work. It is a state-sponsored body, operating under the Safety, Health and Welfare at Work Act 2005 and reporting to the Minister for Enterprise, Trade and Innovation (Minister for Labour Affairs and for Public Service Transformation).

The Authority's functions include the promotion of measures for the safety, health and welfare of all employees and employer throughout the state, the monitoring of compliance with the 2005 Act and enforcement, under statutory provisions, where non-compliance occurs.

The Authority provides advice and information on matters relating to safety, health and welfare at work and fosters national and localised co-operation on risk prevention between people and organisations that represent employees and employers.

The Authority's work programme is led by its senior management team who act in line with Government policy, implementation strategy, and measure and evaluate operational effectiveness on an ongoing basis and report quarterly to the Board.

The Authority currently has headquarters office in Dublin with regional field offices in Waterford, Cork, Limerick, Galway, Sligo, Athlone and Kilkenny. The Kilkenny office is also the headquarters for the Chemicals, Policy and Services division of the Authority. The Authority has secured offices in Kilkenny as an interim location for decentralisation pending completion of the Authority's offices in Thomastown.

This manual is prepared in accordance with the requirements of Section 16 of the Freedom of Information Acts. It outlines how the Authority makes decisions under the enactments and the schemes that it operates.

## **2. THE FREEDOM OF INFORMATION ACTS**

The Freedom of Information (FOI) Acts 1997 and 2003 provide three main statutory rights:

- a legal right for each person to access information held by public bodies,
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading, and
- a legal right to obtain reasons for decisions affecting oneself.

The Acts assert the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

The following records come within the scope of the Acts:

- all records relating to personal information held by the Authority irrespective of when created,
- all other records created from commencement date of 21<sup>st</sup> April 1998,
- any other records necessary to the understanding of a current record.

It is important to be aware that Section 46(1) of the Freedom of Information Act as amended by Section 74 of the Safety, Health and Welfare at Work Act 2005 provides that this Act does not apply to:

- (dc) a record held or created under the relevant statutory provisions by the Health and Safety Authority of an employee of the Authority, relating to or arising from its enforcement functions (other than a record concerning any other functions of the Authority or the general administration of the Authority).

In other words, only records concerning the general administration of the Authority are disclosable under Freedom of Information legislation. Therefore, access to information under the Freedom of Information Act does not extend to, for example, records relating to the investigation of accidents.

## 2.1 Requests Under The Freedom Of Information Acts

In processing requests under the Freedom of Information Acts, the Authority follows guidelines set out in its FOI manual, prepared in accordance with Section 15 of the manual. All requests under the FOI Acts and requests for internal review of FOI requests should be addressed to:

Freedom of Information Office,  
Health and Safety Authority,  
The Metropolitan Building,  
James Joyce Street,  
Dublin 1

Telephone     1890 289 389  
Fax             (01) 614 7020  
E-mail         [foi@hsa.ie](mailto:foi@hsa.ie)

Applications must be in writing and should indicate that the information is sought under the Freedom of Information Acts 1997 and 2003. An application form 'Request for Information under the Freedom of Information Acts' is available on request but you are not required to use a form.

When you are preparing a request, please follow these guidelines:

- If you require the information in a particular format (such as a photocopy, computer disk, etc.) this should be mentioned in the application.

- Please give as much detail as possible to enable the staff of the Authority to identify the record and reply promptly to your request. If you have difficulty in identifying the precise records that you require, the FOI Officer will be happy to assist you in preparing your request.
- Provide full contact details including a contact telephone number.
- Enclose the appropriate fee (see manual prepared in accordance with Section 15 of the Acts at [www.hsa.ie](http://www.hsa.ie)).

The Authority will normally be obliged to respond to the request within 20 working days.

### **3.0 ENFORCEMENT**

The Health and Safety Authority enforces the relevant statutory provisions in relation to Occupational Safety and Health and provides expert advice to employers, employees and the self-employed. This section outlines the general practices and procedures, which apply in the case of inspection.

#### **3.1 Inspections**

The purpose of an inspection is for the Authority's inspector to determine the extent to which employers, directors and senior managers are aware of their safety and health responsibilities. Inspectors ask the person in charge in the workplace at the time of the inspection, some key questions about the extent of their knowledge on their responsibilities and how they are managing health and safety and they will also evaluate the safety statement to see if it adequately identifies and controls the risks to persons at that workplace.

The main functions of an Inspector are –

- to carry out inspections of places of work and ensure compliance with the law,
- to undertake investigations into possible breaches of the health and safety criminal code with a view where appropriate to the initiation of prosecutions, and
- to provide workplace advice on occupational health and safety.

#### **3.2 Conducting an Inspection**

During an inspection the Authority's inspector endeavours to meet the most senior person in charge in the workplace and outlines the nature of the inspection. They will also meet the Safety and Health Manager/Adviser and the Safety Representative where they are in place. Following the formal introductions the inspection will firstly review relevant safety and health documentation including the safety statement and/or the safety and health plan as appropriate. This will be followed by a workplace inspection using a sampling approach, covering the key risks as identified in the safety and health documentation. The inspectors need to establish the adequacy of the control measures in place for these risks. A close out meeting is then held with the most senior person in charge on the day, preferably the

MD/CEO, Company Director or other responsible senior manager in order to give a verbal or written report of the inspection. If there are statutory contraventions or serious risks of the safety, health and welfare at work of persons an inspector may serve Enforcement Notices on the employer or on an employee. At this meeting the inspector also reviews with the senior manager his/her level of awareness of legal responsibilities under the 2005 Act and the level of their implementation of these responsibilities.

Awareness and implementation of senior managers' responsibilities is evaluated from compliance with the advice given in the following Health and Safety Authority guidance:

- Workplace Safety and Health Management,
- Safety Statements and Risk Assessments, and
- Safety Representatives and Safety Consultation

The extent to which this guidance is used is determined by:

- The adequacy of safety and health documentation prepared and in use, e.g. whether a safety statement or other relevant safety and health documentation are prepared, are available for inspection at the workplace, and their adequacy etc.,
- How well developed the safety and health management system is at the workplace, and
- How the inspection went, the nature of the risks found, the extent of their control or lack of control observed during the inspection.

The view an inspector may form as to the extent of management compliance with their duties under the 2005 Act will primarily come from the examination of the Safety Statement and the assessment of the extent to which it is being implemented on the ground. The response the inspector receives to the safety and health management questions posed will confirm their assessment.

The inspectors questioning will be tailored to suit the size and complexity of the organisation and the prevailing workplace circumstances. The questioning covers two key aspects of workplace safety and health management i.e. the adequacy of safety and health organisation in the company for complying with the 2005 Act and the extent of safety and health monitoring and auditing being carried out by the company to ensure it complies with the 2005 Act.

### **3.3 Selection of Premises for Inspection.**

The Authority inspects approximately 16,000 places of work each year in a number of industrial sectors including the high risk areas of construction, mining, quarrying, agriculture and chemical storage and production.

The place of work may be selected for inspection either as a routine inspection, a targeted inspection as part of the Authority's program of work, a follow up to a complaint or the investigation of an accident or incident. The Authority also carries out follow up inspections to ensure that enforcement action has been addressed satisfactorily at the place of work.

Complaints, accidents and incidents are received, processed and actioned by the Authority's Workplace Contact Unit and the requirement for investigation of specific complaints, accidents and incidents is evaluated. The Authority is notified of approximately 8,000 accidents and 4,000 complaints each year. Accident and complaints are considered for investigation based on set criteria and their severity and the final decision is at the professional discretion of a senior inspector who will allocate a priority.

### **3.4 Directions, Notices, Prosecutions and Court Orders**

#### **Description**

The Health and Safety Authority's inspectorate enforce legislation on occupational safety, health and welfare. In addition to rights of entry, inspection and sampling an Inspector may:

- issue an Improvement Direction, to which an employer is required to respond with an Improvement Plan in relation to activities to which the inspector considers may involve risk to safety or health of persons,
- issue an Improvement Notice stating his opinion that, an employer has broken a provision of an Act or Regulation,
- issue a Prohibition Notice in relation to an activity, which the inspector is of the opinion, has been or is likely to be a risk of serious personal injury to persons at work. This might require an immediate stoppage of work,
- in certain cases recommend the initiation of prosecutions,
- give directions or instructions, and
- prohibit or restrict the movement of chemicals.

It should be noted that the above list is non-exhaustive and powers of inspectors are listed in no particular order.

In certain circumstances, the Authority may apply under Section 71 of the 2005 Act to the High Court for an Order in relation to certain activities. This can be obtained on an ex parte basis, that is, without notice to the employer concerned. These orders are usually obtained where physical hazards and significant deficiencies in health and safety management cause the Authority to consider the risk to persons to be very serious.

#### **Procedures**

The procedures used by Inspectors for enforcing the legislation are set out in the Manual of Enforcement Guidance for Health and Safety Inspectors.

#### **Rules/Procedures/Practices/Guidelines**

Manual of Enforcement Guidance for Health and Safety Inspectors.



## 4.0 CHEMICAL LEGISLATION

### 4.1 Competent Authority for Chemical Legislation

#### Description

The Authority is the National Competent Authority for a range of European chemical legislation on health, safety and the environment. The list of legislation that it is the competent authority for includes:

- Asbestos
- Carcinogens
- Chemical Agents
- Biological Agents
- REACH Regulation
- Detergents Regulation
- Classification, Packaging and Labelling of Dangerous Substances and Preparations
- Marketing and Use Directive
- Export and Import of Dangerous Chemicals Regulation

Further details on the legislation can be accessed on the Authority's website [www.hsa.ie](http://www.hsa.ie)

As Competent Authority the Authority's key actions are to:

- Provide technical expertise to the Department of Enterprise, Trade and Innovation (DETI) during EU negotiations on new and existing chemicals legislation at the European Council.
- Participate as technical experts and as Competent Authority at Commission and European Chemical Agency (ECHA) working groups and committees.
- Engage and consult with our stakeholders and customers throughout negotiations and discussions so that Irish views and interests are provided at the EU level.
- Develop the legislative proposals for implementation of European directives and regulations in Ireland and manage the consultation process around this.
- Develop codes of practice, guidance and guidelines.
- Inform, educate and promote awareness and knowledge of chemical legislation through a dedicated helpdesk, web-pages, awareness campaigns, seminars, workshops, newsletters and other forums.
- Monitor and engage in discussions on emerging trends and changes in chemical research and development so that we can plan for future work areas and needs
- Lead and participate in stakeholder forums.

- Act as the principal contact for the Authority in the Technical and Scientific Advisory Committee (TSAC) and related ad-hoc working groups.

The REACH regulation, along with the regulation concerning the export and import of certain dangerous chemicals, and the Detergents regulation are covered by a new framework Chemicals Act 2008, which facilitates the enforcement of these EU regulations nationally. The Chemicals Act also outlines the various roles and responsibilities of national authorities for the enforcement of the above EU regulations under its ambit, including provision for a number of agencies and departments taking on competent authority roles. The Act also provides for forthcoming regulations on the new classification, labelling and packaging of substances and mixtures (arising from the Globally Harmonised System of Classification and Labelling, known as the GHS system).

### **Procedures**

Most of the decision making on European legislation, such as the REACH regulation, is done through various committees set up either under the aegis of the European Chemicals Agency (ECHA) or the European Commission. Representatives from the Chemicals Policy and Services division of the Authority represent the Authority and Ireland in these committees and technical working groups. The information which representatives on these committees and groups receive in the course of this work, is subject to certain rules of confidentiality, and generally means that such information should not be disclosed to anyone outside of the Authority, or other public authority with a role under REACH, unless otherwise authorised or made publicly available.

In the case of REACH, the decision-making procedures are specified and detailed in the regulation itself, and the guidance which has been developed by the EU to support the REACH regulation. The details of the REACH work programmes, membership, and minutes of these committees are all publicly available through the ECHA website at <http://echa.europa.eu/>.

In relation to decision-making in other legislative areas, the Chemicals Policy and Services division carries out extensive stakeholder consultation, via the internet and the various committees established within the Authority to facilitate stakeholder consultation, such as the Technical and Scientific Advisory Committee, (TSAC).

The Authority provides technical expertise and advice to the Government (via our parent Department of Enterprise, Trade and Innovation) in the development of national policy on many aspects of chemicals, including the classification, packaging and labelling of substances, the marketing and use of dangerous substances, the export and import of certain dangerous chemicals, and detergents regulations, etc. This support is usually delivered by attending Technical Working Group Meetings of the European Council, and supported by our stakeholder consultation process.

Similar procedures are in place in relation to the Chemical Agents, Carcinogens, Asbestos and Biological Agents Regulations. The division, in conjunction with the Department of Enterprise, Trade and Innovation, is responsible for providing regulatory up-dates and revisions to government as appropriate. Guidance documents for employers/employees on these regulations are also prepared and published along with general advice on various

chemical and biological related issues. Information on specific topics is published on the Authority website or provided to employers, employees and the general public through the Workplace Contact Unit.

Responsibility for enforcement of all the above legislation is lead by the Workplace Compliance and Advice division of the Authority. Through its work on legislation and guidance development, the Chemicals Policy and Services division actively supports these enforcement activities.

### **Rules/Procedures/Practices/Guidelines**

Guide to the Chemicals Act 2008

Technical Guidance Documents to the REACH Regulation (EC) No. 1907/2006, on ECHA website, at <http://echa.europa.eu/>.

Function and Scope of REACH Helpdesk – at [www.reachright.ie](http://www.reachright.ie)

## **4.2 Transport of Dangerous Substances**

### **Description**

Relevant legislation relating to the Transport of Dangerous Goods by Road is enforced by legislation by the Authority's. The storage of petroleum (in retail and private stores) is also subject to inspection.

### **Procedures**

The approval of Driver Training courses, for the transport of Dangerous Goods, is carried out in accordance with set procedures, under the Carriage of Dangerous Goods by Road Regulations 2001 [S.I. No. 492, 2001]. Guidance for Providers of Driver Training Courses (ADR) is available from the Health and Safety Authority in hardcopy or electronic form.

The Authority is the Competent Authority for conducting the examination of such drivers, including setting examination questions. Guidance for Approved Trainer Providers is also available from the Authority in hardcopy or electronic form.

The inspection of Dangerous Goods Vehicles (road-checks) is carried out as part of the Authority's planned work programme. During a Dangerous Goods Vehicles inspection a member of an Garda Síochána accompanies an inspector. Enforcement proceedings may result from these inspections.

The Authority issues Petroleum Licences to Local Authority Petroleum Stores. The criteria for their issue require compliance with the following legislation:

Dangerous Substances Act 1972

Dangerous Substances (Retail and Private Petroleum Stores) Regulations 1979 (S.I. No. 311 of 1979)

Dangerous Substances (Retail and Private Petroleum Stores) (Amendment) Regulations, 1988 (S.I. No. 303 of 1988)

As the Competent Authority for the Dangerous Goods Safety Advisor examinations, approval has been given to the examination body Chartered Institute of Logistics and Transport (CILT) in Ireland. The Directive 96/35/EC gives guidance on the requisite qualifications of the examination body.

The ADR Agreement which currently stands as per Irish legislation is the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) and protocol of signature (with amendments up to January 1999) [ECE/TRANS/130 Volumes I and II} ISBN 0-110941712-X.

## **5.0 PUBLIC RELATIONS/CUSTOMER SERVICES**

### **5.1 Media Relations**

#### **Description**

The Health and Safety Authority issues regular press releases, many of which attract a significant volume of media enquiries. The Authority also responds to enquiries on a wide variety of topics from national and local press, the broadcast media and various trade publications.

#### **Procedures**

It is the Authority's policy that the Communications Unit deals with media queries. In certain circumstances, for example where technical expertise may be required to deal with the enquiry, the Communications Unit, through the relevant line manager, will ensure an appropriate spokesperson is nominated to respond to the journalist.

#### **Rules/Procedures/Practices/Guidelines**

Office Notice No.02/02

### **5.2 Customer Complaints**

#### **Description**

The Health and Safety Authority is a customer-oriented organisation, which adopts a positive attitude towards all comments or complaints about the quality of service provided.

The Authority intends to reduce the scope for customer dissatisfaction as much as possible by maintaining the highest standards of customer care. However, the Authority recognises that complaints may sometimes arise and it has put in place a complaints procedure to ensure that complaints are dealt with in a consistent, fair and open manner.

#### **Procedure**

If a customer is unhappy with how they have been treated they should:

- raise their concerns with the person with whom they have been dealing, and
- if they remain unhappy, they should ask to speak to the supervisor of the person with whom they have been dealing

Complaints are fully and fairly investigated and complainants are informed of the results of the investigation as soon as possible. The Authority aims to reply to complainants on the progress of the investigation within 20 working days.

Where the Authority is at fault, the complainant will be informed of what will be done to put the matter right. If the complainant is still not satisfied, they may write to the Head of Communications, Health and Safety Authority, The Metropolitan Building, James Joyce Street, Dublin 1 who will arrange for the complaint to be investigated further and a reply concerning the progress of the investigation to be sent within 15 working days. Where a complaint shows that the processes or procedures of the Authority are deficient, the Authority makes every effort to remedy the situation as quickly as possible.

### **Rules/Procedures/Practices/Guidelines**

Code of Corporate Governance

Customer charter

Code of Standards and Behaviour

Full details of the Authority's complaints procedure are available on its web-site [www.hsa.ie](http://www.hsa.ie)

## **6.0 GENERAL ADMINISTRATION**

### **Description**

This scheme involves the general administration of the Authority in relation to human resources, organisation, accommodation, health and safety, the management of the Authority's financial resources and services to the Board and to Advisory Committees.

### **Procedures**

The Authority's policies and procedures are developed in line with legislation. The Authority is also required to implement regulations determined from time to time by the Department of Finance by way of Circulars. In the majority of cases, the Authority is required to implement the Circulars strictly in line with the conditions set out therein.

Information relating to staff administration, policies and procedures is circulated to the staff of the Authority on a regular basis.

### **Rules/Procedures/Practices/Guidelines**

The policies and procedures in place include:

- Superannuation Schemes
- Tax Clearance Procedures
- Prompt Payment of Accounts
- Purchasing Procedures
- Annual Leave Procedures
- Sick Leave Procedures
- Special Leave without pay for Career Breaks

- Maternity Leave
- Paternity Leave
- Parental Leave
- Force Majeure Leave
- Carers Leave Bereavement Leave
- Code of Standards and Behaviour
- Flexible Working Hours
- Worksharing Scheme
- Term Time Scheme
- An Anti Harassment, Sexual Harassment and Bullying Policy
- Grievance Policy and Procedure
- Disciplinary Policy and Procedure
- Learning and Development Policies and Procedures
- Refund of Fees and Study Leave
- Travel and Subsistence Guidelines
- Delegates and Chairpersons Allowance for attendance at meetings abroad
- Health and Safety Procedures
- Evacuation Procedures

Further information about any of the above areas is available from the Authority's Corporate Services Division.