

Draft

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Health and Safety Authority

**Code of Practice on Preventing Accidents to Children and Young Persons
in Agriculture**

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FOREWORD

The Health and Safety Authority, with the consent of, , Minister of State at the Department of Enterprise, Trade and Employment, and following public consultation, publishes this Code of Practice entitled “Code of Practice on Preventing Accidents to Children and Young Persons in Agriculture”, in accordance with section 60 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005).

The Code of Practice provides practical guidance as to the observance of the provisions of the Safety, Health and Welfare at Work Act 2005 (called the “2005 Act” after this) and the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007) as amended by the Safety, Health and Welfare at Work (General Application)(Amendment Regulations)2007 (S.I. No. 732 of 2007) (called the “General Application Regulations 2007” after this) relating to the protection of the safety and health of children and young persons on farms.

In particular, but not exclusively, this Code of Practice provides practical guidance as to the observance of the provisions of –

- (i) Chapter 1 of Part 2 (sections 8 to 12 in relation to the general duties of employers), Chapter 2 of Part 2 (sections 13 to 15 in relation to the general duties of employees and persons in control of places of work) and Part 3 (sections 19 and 20 in relation to hazard identification and risk assessment and safety statements) of the 2005 Act, and
- (ii) Chapter 1 of Part 6 (Regulations 143 to 146 and Schedule 7 in relation to the protection of children and young persons) of the General Application Regulations 2007.
(See Appendix 1, Extracts from some Relevant Legislation)

This Code of Practice comes into operation on ??????? 2009 and from that date it replaces the Code of Practice entitled “Code of Practice on Preventing Accidents to Children and Young Persons in Agriculture” which was issued by the Authority in July 2001 in accordance with the Safety, Health and Welfare at Work Act 1989.

Notice of issue of this Code of Practice, and the withdrawal of the 2001 Code of Practice, was published in the Iris Oifigiúil of ??? ????? 2009.

This Code of Practice is complementary to the Health and Safety Authority Code of Practice entitled “Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture”, which came into effect on 1 November 2006. That Code of Practice provides practical guidance to people at work in the agriculture sector with respect to the observance of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005), in accordance with section 20(8) of the Act. In particular, it provides practical guidance on the provisions of sections 19 and 20 of the 2005 Act relating to hazard identification and risk assessment and the safety statement, respectively.

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1. INTRODUCTION

The farm is one of the most dangerous workplaces with one of the highest fatal accident rates of any employment. Because farms are homes as well as workplaces, there are frequently children and young persons in this high-risk environment, either in the family or as visitors. This means children and young persons are at risk of death or injury on farms. This Code of Practice applies only to on-farm work activities and their potential impact on children and young persons.

Between 1996 and 2005, 38 children and young persons died as a result of farm accidents. The main causes were -

- ❖ crushed by tractors and tractor-drawn machinery
- ❖ contact with other agricultural machinery
- ❖ drowning in slurry or water.

This Code of Practice applies to all children and young persons who may be present on a farm, whether -

- ❖ employed
- ❖ working on the family farm or that of a relative or friend
- ❖ family member
- ❖ visitor.

Since a farm is unique in terms of its dual role as a workplace and a home, it contrasts readily with virtually all other places of employment as regards the potential for work activities to impact on and affect children.

This Code of Practice relates to the protection of the safety, health and welfare of children and young persons, as defined, on farms whether or not engaged in work there, from the hazards and risks arising in connection with work activities. It does not deal with other activities, such as driving tractors and other machinery on the public roads, which are covered under Road Traffic legislation.

While this Code of Practice focuses primarily on practical guidance as to the observance of certain provisions of the Safety, Health and Welfare at Work Act 2005, the Safety, Health and Welfare at Work (General Application) Regulations 2007 and the Health and Safety Authority Code of Practice entitled “Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture (2006)” relating to the protection of the safety and health of children and young persons on farms, attention is also drawn to other potentially relevant legislation. (See Appendix 2 - Protection of Young Persons (Employment) Act 1996 (No. of 1996),

2. DEFINITION OF CHILD AND YOUNG PERSON

In this Code of Practice the following definitions apply to a child, young person, and the school leaving age.

“child” means a person who is under 16 years of age or the school leaving age whichever is the higher.

“young person” means a person who has reached 16 years of age or the school-leaving age (whichever is higher) but is less than 18 years of age.

(**Note:**-For the avoidance of repetition and easier readability, the word “minor” is used in the text of this Code of Practice encompassing both “child/children” and “young person(s)”, unless the context clearly requires otherwise.)

“school leaving age” means the age at which the School Attendance Act 1926 ceases to apply or in lieu thereof any age set down by or under any enactment, passed and in operation after the passing of the Protection of Young Persons (Employment) Act 1996 (No 16 of 1996) as the minimum age at which compulsory full-time schooling ends.

Most fatal accidents which occur to children on farms are as a result of their straying into areas where work is taking place. While parents are responsible for ensuring their children do not stray into dangerous areas, all adults working in agriculture, whether employers, employees, contractors or other visiting workers, have responsibility under the 2005 Act and the General Application Regulations 2007 for the safety and health of non-employees affected by their work activities.

3. SCOPE OF CODE OF PRACTICE

This Code of Practice provides practical advice and guidance on how to reduce the risk of accidents to minors on your farm. It -

- ❖ identifies the situations where accidents are most likely to happen
- ❖ identifies tasks that are too hazardous for minors to undertake (these have been identified both from assessment of their potential risk and accident data)
- ❖ describes practical steps you can take to prevent such accidents.

Following the advice will help you comply with the general duties in the 2005 Act and the General Application Regulations 2007.

In many instances minors carry out work activities on the family farm assisting a parent or other family member. These minors are not employees as defined in the legislation. However, they are equally exposed to the risks associated with those work activities.

Farmers (the vast majority of whom are self-employed) must prepare a Safety Statement to comply with Section 20 of the 2005 Act. It must be based on an identification of the hazards and an assessment of the risks, so as to ensure their own safety and that of other persons (e.g. children or young persons assisting in work activities). However, farmers with three or fewer employees may instead follow the guidance in the Health and Safety Authority 2006 Code of Practice entitled “Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture” and complete a risk assessment within the framework set out in that Code of Practice.

In either case, a risk assessment must be carried out relating to all minors involved in work activities assisting farmers in the farm setting.

Advice and guidance is given on the following specific areas -

- ❖ Safety Statement and risk assessment for work activities that involve children and young persons
- ❖ Supervision, instruction and training
- ❖ General principles of health and safety management
- ❖ Play areas for children not involved in work activities
- ❖ Operating and riding on machinery
- ❖ Contact with machinery and moving vehicles
- ❖ Contact with animals
- ❖ Drowning and asphyxiation
- ❖ Hazardous substances
- ❖ Falling from heights
- ❖ Being hit by a falling object
- ❖ Fire.

4. SAFETY STATEMENTS AND RISK ASSESSMENTS

Farmers, like other employers and self-employed persons, have a legal obligation to prepare a Safety Statement or alternatively (in the case of farmers with 3 or fewer employees) to complete the risk assessment process in the 2006 “Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture”. The Safety Statement or the Agriculture Code of Practice process is essentially a document setting out how safety and health is to be managed on the farm. It will include a systematic appraisal of all the hazards on the farm, with an assessment of the risk of them causing injury. Where the risk of injury is high, it identifies control measures to eliminate or reduce the risk.

While the employment of children under 16 is generally prohibited by the Protection of Young Persons (Employment) Act 1996, a child over 14 years may be permitted to do light work that is non-industrial work, where there is no risk to the safety and health of the child and which is not harmful to their attendance at school. This light work may be done during school holidays provided it is not harmful to health, development or schooling. A child over 14 may be employed as part of an approved work experience or education programme.

In general it must be recognised that minors are not mature enough to be involved in or exposed to the risks arising from, hazardous farm work activities including;

- ❖ Operation of hazardous farm machinery
- ❖ Operation of mechanically propelled vehicles
- ❖ Movement of livestock
- ❖ Loading and unloading of livestock
- ❖ Agitation and spreading of slurry
- ❖ Mixing or use of chemicals, veterinary medicines and pesticides

A risk assessment must be carried out before any minor starts work and should also cover minors such as family members and visitors, who may be affected by the work activities.

When carrying out a risk assessment for minors you will need to take into account and assess -

- ❖ their level of experience, including training, knowledge and skills
- ❖ their level of awareness of risks
- ❖ their level of maturity (both physical and mental) including their age and physical size.

Consent should be sought of parents or guardians and given before minors start work.

You also must inform the parents or guardians of minors of -

- ❖ the outcome of the risk assessment

- ❖ the control measures introduced to safeguard their safety and health.
- ❖ the instruction and training to be undertaken before work starts

In your risk assessment you will also need to include -

- ❖ the general layout, fitments and the specific place where they will work
- ❖ exposure to physical, chemical or biological agents (if any) at the place of work, and, if so, whether it presents a risk
- ❖ the type of work equipment involved and its safe use or operation
- ❖ how the work is done - the arrangement of work processes and of work operations at the place of work
- ❖ the level of ongoing supervision, instruction and training provided to a minor at the place of work.

5. SUPERVISION, INSTRUCTION AND TRAINING

It is important to note that minors, partly because of their level of maturity, will need more supervision and instruction, than you would normally expect to give an adult. It is essential that minors be adequately supervised by a responsible adult. Most minors will not readily appreciate the importance of safe and healthy work practices and the risks associated with work, unless they are told about them and are fully and properly instructed and trained on how to avoid the risks arising. Instructions given need to be clear and understandable. Effective supervision will also help to monitor the effectiveness of the instruction and training the person has received and whether they are competent to do the job.

Minors should not be permitted to carry out any work activity unless you have assessed their capabilities, in terms of safety and health, to do the job. The risk assessment will also help indicate the level of ongoing supervision, instruction and training required. You should not require minors to do work that is beyond their capability, or which might put them, or others, at risk. The risk assessment will help identify work activities that are not suitable for them and they must not be allowed to carry out such work. The type of work unsuitable for young people and ways of reducing the level of risk to which they are exposed are described in further detail in this Code of Practice.

Training is essential and must be provided. Remember that minors need training most when they start work to raise their capabilities and competence to a level where they can do the job safely. Minors will also need instruction and training on the hazards and risks on the farm and on the measures in place to protect their safety and health. Training should include an introduction to health and safety including first aid, fire and evacuation procedures.

6. PLAY AREAS FOR CHILDREN NOT INVOLVED IN WORK ACTIVITIES

In the ten years between 1996 and 2005 (inclusive) 38 children died as a result of farm accidents. The major cause of these fatal accidents involved children playing on or around tractors and machinery. There is also a tendency for very young children to inadvertently stray into areas where work activities are ongoing. Never underestimate a child's curiosity or their ability to get into seemingly inaccessible places, and do not assume that because an adult would not wish to enter the same applies to a child. The

second most common cause of fatality to children is drowning. The most effective way of preventing access to such hazardous areas is to erect child-proof fencing or other barriers and to provide a safe and secure play area for these children away from all work activities.

Special care needs to be taken to ensure that children do not have access to danger areas, attracted through curiosity, arising from factors such as the noise of tractor engines or other machinery.

7. OPERATING TRACTORS

Children under the age of 14 must not be allowed to drive or operate tractors or mechanically propelled machines such as teleporters, jeeps, etc.

In addition to this, a child or young person aged 14 or over should only be permitted to drive a tractor or mechanically propelled machine on the farm, if -

- ❖ they have attended a formal training course run by a competent training provider, and have received adequate instruction in the safe operation of the particular tractor they are driving and fully understand the purpose of all the controls and the effect of their improper use
- ❖ they are closely supervised by a responsible adult
- ❖ they have the ability to operate the controls with ease
- ❖ all the controls are conveniently accessible for safe operation by the operator when seated in the driver's seat
- ❖ the controls which operate the power take off (PTO) devices, hydraulic devices and engine cut-off are clearly marked to show the effect of their operation
- ❖ the tractor is maintained so that it is safe for them to operate
- ❖ the ground over which the tractor is driven is free from hazards such as steep slopes or excavations, river banks, lake or pond edges, deep ditches and similar areas.

You must also ensure that -

- ❖ no other child or young person is present on the tractor
- ❖ other than for the purposes of supervision or instruction, no other person is on any trailer or other equipment being towed
- ❖ no other person is in the immediate vicinity.

8. OPERATING MACHINERY

There are certain types of machine which have a high level of risk due to the components involved, complex control systems, the substances used in them or the specialist knowledge required to operate them safely. Because of this, minors should be prohibited from driving, or operating, the following -

- ❖ towed/self-propelled harvesters and processing machines (except those machines designed for operation by people in addition to the driver and where the young person is on the operating platform and under the supervision of an adult)
- ❖ trailers and towed machinery with built-in conveying, loading, or spreading mechanisms
- ❖ power-driven machines incorporating cutting, splitting, grinding or crushing mechanisms (including chainsaws)
- ❖ chemical applicators of any sort, including hand-held equipment
- ❖ machines incorporating power-driven soil engaging parts
- ❖ ditching and drainage machinery
- ❖ material handlers including skid steer loaders, lift trucks and track-laying vehicles
- ❖ slurry tankers
- ❖ powered feed-preparation equipment.

NB:- The list above is not exhaustive

In addition, minors should not be allowed to help in maintenance or cleaning operations on such machines.

9. RIDING ON TRACTORS AND MACHINERY

Children under the age of 14 should be prohibited from riding on agricultural machines including agricultural trailers unless the risk assessment shows it to be safe to do so with the following exception -

Children between the ages of 7 and 16 may ride on a tractor provided the tractor is fitted with a properly designed and fitted passenger seat (with seat belts) inside a safety cab or frame.

10. CONTACT WITH MACHINERY AND MOVING VEHICLES

Machine operators should ensure that minors are kept away from the machines and the area they are working in. If a minor enters an area from which they should be excluded, operators should stop work until it is safe to continue and report the incident to the employer or parent or guardian if appropriate.

Contact with machinery and moving vehicles is a major cause of accidents to minors on farms. To reduce the risk of accidents, you need to assess the risks and apply the appropriate control measures.

Where vehicles are moving around the farm and the risk of contact with minors is high, you should make arrangements to prevent them having access to that part of the farm. (See Section 6 on play areas for children not involved in work activities.)

Where this is not practicable you must closely supervise them. You could consider the following options-

DURING MOVEMENT/OPERATION

- ❖ check that children and young persons are not in the area before getting into the vehicle
- ❖ reduce vehicle movements
- ❖ reduce the speed at which vehicles move to a safe level
- ❖ put up signs reminding drivers that children may be in the vicinity and that they should drive with extra care
- ❖ minimise reversing and avoid blind reversing by using another person as a guide.

Where practicable, drivers of vehicles also need to be made aware of, and follow, the following simple precautions -

STOPPING AND PARKING

- ❖ ensure they can stop within the distance they can see to be clear (especially important around corners or when approaching obstructions)
- ❖ apply the parking brake
- ❖ lower mounted equipment to the ground
- ❖ stop the engine
- ❖ remove the starting key and lock or otherwise secure the tractor.

Minors living or working on the farm need to be told the hazardous areas from which they are excluded, the hazards from moving vehicles and other dangers they need to look out for. Children visiting the farm and, if appropriate, their parents, also need the hazards and precautions explained to them.

11. DROWNING AND ASPHYXIATION

Deaths of minors on farms result from asphyxiation, including drowning. These accidents occur when they fall into or gain entry to areas such as -

- ❖ slurry tanks, silos or pits
- ❖ sheep dipping tanks
- ❖ open wells, open barrels, water troughs or tanks full of water
- ❖ grain stores
- ❖ grain silos
- ❖ grain hoppers or pits
- ❖ ditches, streams and rivers
- ❖ irrigation reservoirs.

To prevent this type of accident you need to stop them getting into such areas. Think about possible ways they can do this. Again, do not underestimate their curiosity or their ability to get into seemingly inaccessible places.

If your risk assessment indicates this is a problem you should consider the following precautions -

- ❖ securely fence all lagoons, reservoirs, wells etc.
- ❖ securely cover all tanks (e.g. slurry tanks and sheep dipping tanks) with proper inspection covers.

Where covers have to be removed to empty the tanks, ensure that the openings are protected at all times to prevent children falling into them.

Keep entrances to buildings containing silos or grain bins locked, except when in use.

Avoid stacking bales, tyres etc. in a way that allows children to enter otherwise inaccessible structures.

12. FALLS FROM HEIGHTS

Childrens' and young persons' natural curiosity often leads them to get into the upper levels of buildings and high structures such as silos and stacks of bales. As a result, they are at risk of injuries from falling.

The most effective way to prevent this type of accident is to restrict their ability to enter these structures.

- ❖ Make fixed ladders inaccessible by blanking the rungs (e.g. by securing a scaffolding plank across them) or pull the ladder out of reach.
- ❖ Remove portable ladders so that they cannot be used to access heights or enter hazardous areas.

Many accidents are caused by falls as a result of minors slipping and tripping. A good standard of general housekeeping around the farm is required to prevent these accidents. Spillages of all types (e.g. oil, water, milk etc.) should be cleaned up as soon as possible. Tripping hazards such as trailing electrical leads and waste bailing twine should be avoided. Care should be taken where floors of buildings have just been washed.

13. FALLING OBJECTS

Children have also been killed or injured by objects such as wheels, gates or unstable machinery falling on them. In some cases the objects would not seriously harm adults, so it is easy to overlook the risk they pose to children. Secure, or lay flat, heavy items of machinery and equipment which could fall and injure children.

Where stacks of bales, pallets or timber are stored, take precautions to prevent children gaining access. If fencing is impractical, the stack should be built so that it cannot collapse.

Children have been crushed by the collapse of free standing block walls. All such walls should be checked for structural stability and should be repaired or replaced as necessary.

14. CONTACT WITH ANIMALS

Animals do not need to be aggressive to seriously injure or even kill a minor. A bull, cow, sheep or pig has the potential to cause serious injury. The most effective way of reducing the risk to minors from animals is to keep children away from them, or to allow contact only when they are under direct supervision of an adult.

Children should not be allowed to enter, even when accompanied by an adult, enclosed pens housing the following animals -

- ❖ bulls
- ❖ boars
- ❖ stallions
- ❖ rams
- ❖ stags
- ❖ female livestock with new-born young
- ❖ other livestock known to be aggressive.

Particular care should be taken when animals are initially released from buildings after being housed for a period of time. Minors should not be involved in work activities involving such animals.

There may be good educational and developmental reasons for encouraging minors to have contact with animals. In some circumstances you may wish to allow children, under the direct supervision of an adult, to enter enclosed yards housing the following animals -

- ❖ cows
- ❖ sows
- ❖ mares
- ❖ ewes
- ❖ does
- ❖ other similar female animals.

Animals can carry diseases that can be passed to humans (zoonoses). These include diseases such as orf, which causes skin lesions and E coli 0157, which may cause serious diarrhoea or death. To limit the risk of minors being affected by these diseases, the following precautions should be taken -

- ❖ discourage them from putting their fingers in their mouths

- ❖ ensure that they have washed and dried their hands thoroughly before allowing them to eat or drink after contact with animals, or areas which animals have soiled.

15. HAZARDOUS SUBSTANCES

Minors must be prohibited from handling chemicals, veterinary medicines and pesticides. All hazardous substances kept on the farm must be securely locked away at all times unless the substances are directly and continually supervised. These substances include commonly used products such as detergents and dairy cleaning agents.

Although minors are not at any greater risk than adults from hazardous substances such as dusts, it is unlikely they will have the maturity to comply with the necessary control measures such as wearing respiratory protective equipment (RPE). Therefore, it is advisable to restrict children from those work areas.

16. FIRE

Minors are most at risk from fire on farms when they are playing on stacks of hay or straw. They will make dens in the stacks, which can catch fire, either from the children setting light to them, or from natural causes.

Check for evidence of minors playing around, in, or burrowing under stacks. If you see signs of such activity, take the appropriate action to prevent it from happening again. In some cases it may be necessary to fence-off the area, or contact parents and ask them to keep their children away.

17. CONCLUSION

The activities, precautions and control methods set out in this Code of Practice are not exhaustive and many other agricultural activities pose a risk to children. Farmers have a responsibility to assess each activity in terms of its risk to children and young persons. Before allowing them to carry out a work activity they must decide if it is suitable for them, taking into account their level of competence and the level of supervision and instruction being provided.

Appendix 1

Extracts from some Relevant Legislation

(i) Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005)

Part 2 – General Duties

Chapter 1, General Duties of Employer

Section 8 - General Duties of Employer

- 8.— (1) Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.
- (2) Without prejudice to the generality of *subsection (1)*, the employer's duty extends, in particular, to the following:
- (a) managing and conducting work activities in such a way as to ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees;
 - (b) managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk;
 - (c) as regards the place of work concerned, ensuring, so far as is reasonably practicable—
 - (i) the design, provision and maintenance of it in a condition that is safe and without risk to health,
 - (ii) the design, provision and maintenance of safe means of access to and egress from it, and
 - (iii) the design, provision and maintenance of plant and machinery or any other articles that are safe and without risk to health;
 - (d) ensuring, so far as it is reasonably practicable, the safety and the prevention of risk to health at work of his or her employees relating to the use of any article or substance or the exposure to noise, vibration or ionising or other radiations or any other physical agent;
 - (e) providing systems of work that are planned, organised, performed, maintained and revised as appropriate so as to be, so far as is reasonably practicable, safe and without risk to health;
 - (f) providing and maintaining facilities and arrangements for the welfare of his or her employees at work;
 - (g) providing the information, instruction, training and supervision necessary to ensure, so far as is reasonably practicable, the safety, health, and welfare at work of his or her employees;

- (h) determining and implementing the safety, health and welfare measures necessary for the protection of the safety, health and welfare of his or her employees when identifying hazards and carrying out a risk assessment under *section 19* or when preparing a safety statement under *section 20* and ensuring that the measures take account of changing circumstances and the general principles of prevention specified in *Schedule 3*;
 - (i) having regard to the general principles of prevention in *Schedule 3*, where risks cannot be eliminated or adequately controlled or in such circumstances as may be prescribed, providing and maintaining such suitable protective clothing and equipment as is necessary to ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees;
 - (j) preparing and revising, as appropriate, adequate plans and procedures to be followed and measures to be taken in the case of an emergency or serious and imminent danger;
 - (k) reporting accidents and dangerous occurrences, as may be prescribed, to the Authority or to a person prescribed under *section 33*, as appropriate, and
 - (l) obtaining, where necessary, the services of a competent person (whether under a contract of employment or otherwise) for the purpose of ensuring, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.
- (3) Any duty imposed on an employer under the relevant statutory provisions in respect of any of his or her employees shall also apply in respect of the use by him or her of the services of a fixed-term employee or a temporary employee.
- (4) For the duration of the assignment of any fixed-term employee or temporary employee working in his or her undertaking, it shall be the duty of every employer to ensure that working conditions are such as will protect the safety, health and welfare at work of such an employee.
- (5) Every employer shall ensure that any measures taken by him or her relating to safety, health and welfare at work do not involve financial cost to his or her employees.

Section 9 - Information for employees.

- 9.— (1) Without prejudice to the generality of *section 8*, every employer shall, when providing information to his or her employees under that section on matters relating to their safety, health and welfare at work ensure that the information—
- (a) is given in a form, manner and, as appropriate, language that is reasonably likely to be understood by the employees concerned, and
 - (b) includes the following information—
 - (i) the hazards to safety, health and welfare at work and the risks identified by the risk assessment,

- (ii) the protective and preventive measures to be taken concerning safety, health and welfare at work under the relevant statutory provisions in respect of the place of work and each specific task to be performed at the place of work, and
 - (iii) the names of persons designated under *section 11* and of safety representatives selected under *section 25*, if any.
- (2) Where an employee of another undertaking is engaged in work activities in an employer's undertaking, that employer shall take measures to ensure that the employee's employer receives adequate information concerning the matters referred to in *subsection (1)*.
- (3) Every employer shall ensure that employees appointed under *section 18* and safety representatives, if any, have access, for the purposes of performing their functions relating to the safety, health and welfare of employees, to—
 - (a) the risk assessment carried out under *section 19*,
 - (b) information relating to accidents and dangerous occurrences required to be reported to the Authority or a person prescribed under *section 33* under the relevant statutory provisions, and
 - (c) any information arising from protective and preventive measures taken under the relevant statutory provisions or provided by the Authority, a person prescribed under *section 33*, or a person referred to in *section 34(2)*.
- (4)(a) Where an employer proposes to use the services of a fixed-term employee or a temporary employee, the employer shall, prior to commencement of employment, give information to the employee relating to—
 - (i) any potential risks to the safety, health and welfare of the employee at work,
 - (ii) health surveillance,
 - (iii) any special occupational qualifications or skills required in the place of work, and
 - (iv) any increased specific risks which the work may involve.
- (b) Where an employer proposes to use the services of a temporary employee, the employer shall—
 - (i) specify to the temporary employment business concerned the occupational qualifications necessary for and the specific features of the work for which such an employee is required, and
 - (ii) ensure that the temporary employment business gives the information referred to in *paragraph (a)* to the employee.
- (5) The temporary employment business referred to in *subsection (4)(b)* shall give to the employee the information referred to in *subsection (4)(b)(i)*.

Section 10 - Instruction, training and supervision of employees.

- 10.—(1) Without prejudice to the generality of section 8 and having regard to sections 25 and 26, every employer shall, when providing instruction, training and supervision to his or her employees in relation to their safety, health and welfare at work, ensure that—
- (a) instruction, training and supervision is provided in a form, manner and, as appropriate, language that is reasonably likely to be understood by the employee concerned,
 - (b) employees receive, during time off from their work, where appropriate, and without loss of remuneration, adequate safety, health and welfare training, including, in particular, information and instructions relating to the specific task to be performed by the employee and the measures to be taken in an emergency,
 - (c) in relation to any specific task assigned to an employee, that his or her capabilities in relation to safety, health and welfare are taken into account,
 - (d) in the case of—
 - (i) a class or classes of particularly sensitive employees to whom any of the relevant statutory provisions apply, or
 - (ii) any employee or group of employees exposed to risks expressly provided for under the relevant statutory provisions,the employees concerned are protected against the dangers that specifically affect them.
- (2) Training under this section shall be adapted to take account of new or changed risks to safety, health and welfare at work and shall, as appropriate, be repeated periodically.
- (3) Training under this section shall be provided to employees—
- (a) on recruitment,
 - (b) in the event of the transfer of an employee or change of task assigned to an employee,
 - (c) on the introduction of new work equipment, systems of work or changes in existing work equipment or systems of work, and
 - (d) on the introduction of new technology.
- (4) Where, in respect of any particular work, competency requirements are prescribed, the employer shall provide for the release of employees, during working hours, where appropriate, and without loss of remuneration, for the purpose of attending training in matters relating to safety, health and welfare at work as regards the particular work.
- (5) Every employer shall ensure that persons at work in the place of work concerned who are employees of another employer receive instructions relating to any risks to their safety, health and welfare in that place of work as necessary or appropriate.

- (6) Every employer who uses the services of a fixed-term employee or a temporary employee shall ensure that the employee receives the training appropriate to the work which he or she is required to carry out having regard to his or her qualifications and experience.

Section 11 - Emergencies and serious and imminent dangers.

11.—(1) Without prejudice to the generality of section 8, every employer shall, in preparing and revising as necessary adequate plans and procedures to be followed and measures to be taken in the case of an emergency or serious and imminent danger—

- (a) provide the necessary measures to be taken appropriate to the place of work for first aid, fire-fighting and the evacuation of employees and any other individual present in the place of work, taking account of the nature of the work being carried on and the size of the place of work,
- (b) arrange any necessary contacts with the appropriate emergency services, in particular with regard to first aid, emergency medical care, rescue work and fire-fighting,
- (c) for the purposes of implementing the plans, procedures and measures referred to in this section and section 8
 - (i) designate employees who are required to implement those plans, procedures and measures, and
 - (ii) ensure that the number of those employees, their training and the equipment available to them are adequate, taking into account either or both the size of and specific hazards relating to the place of work.

(2) In the event of an emergency or serious and imminent danger, an employer shall—

- (a) as soon as possible inform all employees concerned of the risk involved and of the steps taken or to be taken to protect them from it,
- (b) save in exceptional cases for the specified in the plans and procedures referred to in subsection (1), refrain from requiring employees to carry out or resume work where there is still a serious and imminent danger to their safety and health, and
- (c) ensure that, in the absence of appropriate guidance or instruction and having regard to the knowledge of the employee and the technical means at his or her disposal, and where the employee's immediate superior responsible cannot be contacted, the employee concerned may take appropriate steps to avoid the consequences of the danger.

(3) In the event of serious, imminent and unavoidable danger, an employer shall—

- (a) take action and give instructions to enable employees to either or both stop work and immediately leave the place of work and to proceed to a safe place, and
- (b) ensure that an employee who leaves a place of work is not penalised because of such action.

- (4) An employer shall ensure that only employees who have received appropriate instructions have access to the area of the place of work where a serious, specific danger exists.
- (5) This section does not apply to the following persons when they are engaged in activities relating to civil emergencies, public order, security or an act of war where any such activity prevents compliance with this section:
 - (a) members of the Defence Forces;
 - (b) members of the Garda Síochána;
 - (c) employees of a fire authority (within the meaning of the Fire Services Act 1981); or
 - (d) persons engaged in the activities of civil protection or civil defence.

Section 12 - General duties of employers to persons other than their employees.

12.—Every employer shall manage and conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that in the course of the work being carried on, individuals at the place of work (not being his or her employees) are not exposed to risks to their safety, health or welfare.

Chapter 2, General Duties of Employee and Persons in Control of Places of Work

Section 13 - Duties of employee.

13.—(1) An employee shall, while at work—

- (a) comply with the relevant statutory provisions, as appropriate, and take reasonable care to protect his or her safety, health and welfare and the safety, health and welfare of any other person who may be affected by the employee's acts or omissions at work,
- (b) ensure that he or she is not under the influence of an intoxicant to the extent that he or she is in such a state as to endanger his or her own safety, health or welfare at work or that of any other person,
- (c) if reasonably required by his or her employer, submit to any appropriate, reasonable and proportionate tests for intoxicants by, or under the supervision of, a registered medical practitioner who is a competent person, as may be prescribed,
- (d) co-operate with his or her employer or any other person so far as is necessary to enable his or her employer or the other person to comply with the relevant statutory provisions, as appropriate,
- (e) not engage in improper conduct or other behaviour that is likely to endanger his or her own safety, health and welfare at work or that of any other person,
- (f) attend such training and, as appropriate, undergo such assessment as may reasonably be required by his or her employer or as may be prescribed relating to safety, health and welfare at work or relating to the work carried out by the employee,

- (g) having regard to his or her training and the instructions given by his or her employer, make correct use of any article or substance provided for use by the employee at work or for the protection of his or her safety, health and welfare at work, including protective clothing or equipment,
 - (h) report to his or her employer or to any other appropriate person, as soon as practicable—
 - (i) any work being carried on, or likely to be carried on, in a manner which may endanger the safety, health or welfare at work of the employee or that of any other person,
 - (ii) any defect in the place of work, the systems of work, any article or substance which might endanger the safety, health or welfare at work of the employee or that of any other person, or
 - (iii) any contravention of the relevant statutory provisions which may endanger the safety, health and welfare at work of the employee or that of any other person,of which he or she is aware.
- (2) An employee shall not, on entering into a contract of employment, misrepresent himself or herself to an employer with regard to the level of training as may be prescribed under subsection (1)(f).

Section 14 - Interference, misuse, etc.

14.—A person shall not intentionally, recklessly or without reasonable cause—

- (a) interfere with, misuse or damage anything provided under the relevant statutory provisions or otherwise for securing the safety, health and welfare of persons at work, or
- (b) place at risk the safety, health or welfare of persons in connection with work activities.

Section 15 - General duties of persons in control of places of work, etc.

15.—(1) This section applies to a person who has control to any extent of—

- (a) a non-domestic place of work that has been made available as a place of work to persons other than employees of the person to whom this section applies,
- (b) the means of access to or egress from that place of work, or
- (c) any article or substance provided for the use of persons at that place of work, other than employees of the person who has control of the article or substance,

including a person who has control of a place of work or part of a place of work in connection with the carrying on by him or her of a trade, undertaking or business (whether for profit or not).

- (2) Where a person has, by virtue of any contract, tenancy, licence or other interest, an obligation to any extent—

- (a) to maintain or repair a place of work or the means of access thereto or egress therefrom, or
- (b) as regards the safety of, or the absence of risk to health arising from, any article or substance provided for use in, that place of work,

the person is deemed, for the purposes of this section, to be a person to whom this section applies to the extent of his or her obligation.

- (3) A person to whom this section applies shall ensure, so far as is reasonably practicable, that the place of work, the means of access thereto, or egress therefrom, and any article or substance provided for use in the place of work, are safe and without risk to health.

Part 3 – Protective and Preventive Measures

Section 19 - Hazard identification and risk assessment.

- 19.—(1) Every employer shall identify the hazards in the place of work under his or her control, assess the risks presented by those hazards and be in possession of a written assessment (to be known and referred to in this Act as a “risk assessment”) of the risks to the safety, health and welfare at work of his or her employees, including the safety, health and welfare of any single employee or group or groups of employees who may be exposed to any unusual or other risks under the relevant statutory provisions.
- (2) For the purposes of carrying out a risk assessment under subsection (1), the employer shall, taking account of the work being carried on at the place of work, have regard to the duties imposed by the relevant statutory provisions.
- (3) The risk assessment shall be reviewed by the employer where—
- (a) there has been a significant change in the matters to which it relates, or
 - (b) there is another reason to believe that it is no longer valid, and, following the review, the employer shall amend the risk assessment as appropriate.
- (4) In relation to the most recent risk assessment carried out by an employer, he or she shall take steps to implement any improvement considered necessary relating to the safety, health and welfare at work of employees and to ensure that any such improvement is implemented in respect of all activities and levels of the place of work.
- (5) Every person to whom sections 12 or 15 applies shall carry out a risk assessment in accordance with this section to the extent that his or her duties under those sections may apply to persons other than his or her employees.

Section 20 - Safety statement

- 20.—(1) Every employer shall prepare, or cause to be prepared, a written statement (to be known and referred to in this Act as a “safety statement”), based on the identification of the hazards and the risk assessment carried out under section 19, specifying the manner in which the safety, health and welfare at work of his or her employees shall be secured and managed.

- (2) Without prejudice to the generality of subsection (1), every employer shall ensure that the safety statement specifies—
- (a) the hazards identified and the risks assessed,
 - (b) the protective and preventive measures taken and the resources provided for protecting safety, health and welfare at the place of work to which the safety statement relates,
 - (c) the plans and procedures to be followed and the measures to be taken in the event of an emergency or serious and imminent danger, in compliance with sections 8 and 11,
 - (d) the duties of his or her employees regarding safety, health and welfare at work, including co-operation with the employer and any persons who have responsibility under the relevant statutory provisions in matters relating to safety, health and welfare at work,
 - (e) the names and, where applicable, the job title or position held of each person responsible for performing tasks assigned to him or her pursuant to the safety statement, and
 - (f) the arrangements made regarding the appointment of safety representatives and consultation with, and participation by, employees and safety representatives, in compliance with sections 25 and 26, including the names of the safety representative and the members of the safety committee, if appointed.
- (3) Every employer shall bring the safety statement, in a form, manner and, as appropriate, language that is reasonably likely to be understood, to the attention of—
- (a) his or her employees, at least annually and, at any other time, following its amendment in accordance with this section,
 - (b) newly-recruited employees upon commencement of employment, and
 - (c) other persons at the place of work who may be exposed to any specific risk to which the safety statement applies.
- (4) Where there are specific tasks being performed at the place of work that pose a serious risk to safety, health or welfare, an employer shall bring to the attention of those affected by that risk relevant extracts of the safety statement setting out—
- (a) the risk identified,
 - (b) the risk assessment, and
 - (c) the protective and preventive measures taken in accordance with the relevant statutory provisions in relation to that risk.
- (5) Every employer shall, taking into account the risk assessment carried out under section 19, review the safety statement where—
- (a) there has been a significant change in the matters to which it refers,

- (b) there is another reason to believe that the safety statement is no longer valid, or
- (c) an inspector in the course of an inspection, investigation, examination, inquiry under section 64 or otherwise directs that the safety statement be amended within 30 days of the giving of that direction,

and, following the review, the employer shall amend the safety statement as appropriate.

- (6) Every employer who is conducting activities, as may be prescribed in accordance with this subsection, who contracts with another employer for that employer to provide services to him or her shall require that that employer is in possession of an up-to-date safety statement as required under this section.
- (7) A copy of a safety statement, or relevant extract of it, shall be kept available for inspection at or near every place of work to which it relates while work is being carried out there.
- (8) It shall be sufficient compliance with this section by an employer employing 3 or less employees to observe the terms of a code of practice, if any, relating to safety statements which applies to the class of employment covering the type of work activity carried on by the employer.
- (9) Every person to whom section 12 or 15 applies shall prepare a safety statement in accordance with this section to the extent that his or her duties under those sections may apply to persons other than his or her employees.

(ii) Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007) as amended by the Safety, Health and Welfare at Work (General Application)(Amendment) Regulations 2007 (S.I. No. 732 of 2007)

PART 6 Sensitive Risk Groups

Chapter 1 — Protection of Children and Young Persons

Interpretation for Chapter 1.

143. In this Chapter:

“child” means a person resident in the State who is under 16 years of age;

“night work” means—

- (a) in the case of a child, any work between 8 p.m. on any one day and 8 a.m. on the following day, and
- (b) in the case of a young person, the hours mentioned in paragraph (b) of section 6(1) of the Protection of Young Persons (Employment) Act 1996 (No. 16 of 1996), as qualified by that section and sections 7 and 8 thereof;

“risk assessment” means the assessment of a risk referred to in Regulation 144;

“young person” means a person who has reached 16 years of age but is less than 18 years of age.

Risk assessment.

144. An employer shall—

- (a) carry out a risk assessment before employing a child or young person and whenever there is a major change in the place of work which could affect the safety or health of such child or young person,
- (b) without prejudice to the provisions of section 19 of the Act, assess any risk to the safety or health of a child or young person and any specific risk to their safety, health and development arising from—
 - (i) his or her lack of experience, absence of awareness of existing or potential risks or lack of maturity,
 - (ii) any work activity likely to involve a risk of harmful exposure to the physical, biological and chemical agents specified in Part A of Schedule 7, and
 - (iii) the processes and work specified in Part B of Schedule 7,and take the necessary preventive and protective measures,
- (c) take account of the following when carrying out a risk assessment:
 - (i) the fitting-out and the layout of the place of work and of the workstation,
 - (ii) the nature, degree and exposure to any physical, chemical or biological agent at the place of work,
 - (iii) the form, range and use of work equipment, in particular agents, machines, apparatus and devices, and the way in which they are handled,
 - (iv) the arrangement of work processes and of work operations at the place of work and of the way in which these may be organised in combination for the purposes of carrying out work, and
 - (v) the training, instruction and level of supervision provided to a child or young person at the place of work,
- (d) in taking the protective and preventive measures in accordance with paragraph (b) and as regards planning for and implementing measures to monitor and protect the

safety and health of a child or young person, take account of section 18 of the Act, and

- (e) without prejudice to the provisions of section 9 of the Act, inform a child or young person of any risk identified in accordance with paragraph (a) and of the preventive and protective measures taken and, in the case of a child, inform the parent or guardian of such child of such risk and such preventive and protective measures.

Circumstances prohibiting employment of a child or young person.

145. An employer shall not employ a child or young person at work where a risk assessment reveals that the work—

- (a) is beyond the physical or psychological capacity of the child or young person concerned,
- (b) involves harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affects human health,
- (c) involves harmful exposure to radiation,
- (d) involves the risk of accidents which it may be assumed cannot be recognised or avoided by a child or young person owing to insufficient attention to safety or lack of experience or training, or
- (e) which presents a risk to health from exposure to extreme heat or cold or to noise or vibration.

Health surveillance.

146. An employer shall—

- (a) where a risk assessment reveals a risk to safety or health or to the physical or mental development of a child or young person, make available health surveillance in accordance with section 22 of the Act,
- (b) make available to a child or young person a free assessment of his or her health and capabilities before assignment to night work and at regular intervals thereafter, and
- (c) inform a child or young person of the result of any health surveillance or health assessment carried out in accordance with paragraphs (a) or (b) and, in the case of a child, inform the parent or guardian of the child of the results of any health surveillance or health assessment.

Protection of Children and Young Persons**Part A — Guide list of agents, processes and work**

Agents

1. Physical Agents

- (a) Ionising radiation;
- (b) Work in a high-pressure atmosphere such as in pressurised containers or diving.

2. Biological agents

Biological agents of risk groups 3 and 4 within the meaning of Regulation 2(1) of the Safety, Health and Welfare at Work (Biological Agents) Regulations 1994 (S.I. No. 146 of 1994) as amended by the Safety, Health and Welfare at Work (Biological Agents)(Amendment) Regulations 1998 (S.I. No. 248 of 1998);

3. Chemical agents

- (a) Substances and preparations classified under the—

- (i) European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations 2003 (S.I. No. 116 of 2003) as amended by the European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations 2006 (S.I. No. 25 of 2006), and
- (ii) European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004 (S.I. No. 62 of 2004) as amended by the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) (Amendment) Regulations 2007 (S.I. No. 76 of 2007)

(referred to elsewhere in this Schedule as the “CPL Regulations”) as toxic (T), very toxic (T+), corrosive (C) or explosive (E) and with one or more of the following risk phrases:

- Risk of explosion by shock, friction, fire or other sources of ignition (R2)
- Extreme risk of explosion by shock, friction, fire or other sources of ignition (R3)
- Toxic by inhalation (R23)
- Toxic in contact with skin (R24)
- Toxic if swallowed (R25)
- Very toxic by inhalation (R26)
- Very toxic in contact with skin (R27)
- Very toxic if swallowed (R28)
- Causes burns (R34)

Causes severe burns (R35)

Danger of very serious irreversible effects (R39)

Danger of serious damage to health by prolonged exposure (R48);

- (b) Substances and preparations classified under the CPL Regulations as carcinogenic, mutagenic or toxic to reproduction and with one or more of the following risk phrases:

Limited evidence of a carcinogenic effect (R40)

May cause cancer (R45)

May cause heritable genetic damage (R46) May cause cancer by inhalation (R49)

May impair fertility (R60)

May cause harm to the unborn child (R61)

Possible risk of impaired fertility (R62)

Possible risk of harm to the unborn child (R63)

Possible risk of irreversible effects (R68);

- (c) Substances and preparations classified under the CPL Regulations as harmful (Xn) and with one or more of the following risk phrases:

Danger of very serious irreversible effects (R39)

Danger of serious damage to health by prolonged exposure (R48);

- (d) Substances and preparations classified under the CPL Regulations as irritant (Xi) and with one or more of the following risk phrases:

May cause sensitisation by inhalation (R42)

May cause sensitisation by skin contact (R43);

- (e) Substances and preparations referred to in the Safety, Health and Welfare at Work (Carcinogens) Regulations 2001 (S.I. No. 78 of 2001);

- (f) Lead and compounds thereof, in as much as the agents in question are absorbable by the human organism;

- (g) Asbestos.

Part B — Processes and work

1. Processes at work referred to in the Safety, Health and Welfare at Work (Carcinogens) Regulations 2001 (S.I. No. 78 of 2001).
2. Manufacture and handling of devices, fireworks or other objects containing explosives.
3. Work with dangerous, fierce or poisonous animals.
4. Animal slaughtering on an industrial scale.
5. Work involving the handling of equipment for the production, storage or application of compressed, liquefied or dissolved gases.
6. Work with vats, tanks, reservoirs or carboys containing chemical agents referred to in item 3 of Part A of this Schedule.
7. Work involving a risk of structural collapse.
8. Work involving high-voltage electrical hazards.
9. Work the pace of which is determined by machinery and involving payment by results.

(**Note** - Chapter 1 of Part 6 (Regulations 143 to 146 and Schedule 7 in relation to the protection of children and young persons) of the General Application Regulations 2007 replaced the provisions of the Safety, Health and Welfare at Work (Children and Young Persons) Regulations 1998 (S.I. No. 504 of 1998 from 1 November 2007.)

Appendix 2

Explanatory Note Protection of Young Persons (Employment) Act 1996 (No. of 1996)

Council Directive 94/33/EC on the protection of young people at work (other than Articles 6 and 7) is transposed into Irish law through the Protection of Young Persons (Employment) Act 1996 (No. of 1996), which is administered and enforced by the Department of Enterprise, Trade and Employment. Chapter 1 of Part 6 and Schedule 7 to the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007), which are administered and enforced by the Health and Safety Authority, transpose into Irish law the health and safety elements in Articles 6 and 7 of Directive 94/33/EC, including risk assessment, circumstances prohibiting employment of a child or young person and health surveillance. (Those elements were originally transposed through the Safety, Health and Welfare at Work (Children and Young Persons) Regulations 1998 (S.I. No. 504 of 1998) which are now repealed.)

While the employment of children under 16 is generally prohibited by the Protection of Young Persons (Employment) Act 1996, a child over 14 years may be permitted to do light work during school holidays provided it is not harmful to health, development or schooling, or may be employed as part of an approved work experience or education programme. A child over 15 may also do such work for up to 8 hours a week during school term. A child under 16 may be employed in film, theatre, sports or advertising activities under licence from the Minister for Enterprise, Trade and Employment.

Any employer wishing to employ anyone under 18 must first require the production of their birth certificate. Before employing a child under 16, the employer must also obtain written permission from the child's parents or guardians.

The Act further provides for the setting of limits to the working hours of young people (i.e. 16 to 17 year olds) who may not work for more than 8 hours in any day or 40 hours in any week.

Summary of Provisions in Relation to Employment of Children over age 14

Age	Max Hours per Week/Day During School Term	Max Hours per Week/Day outside School Term	Permitted Hours of Work	Maximum work experience per Week/Day ¹
14	Nil	35/7	8a.m. – 8p.m.	40 hours/ 8 Hours
15	8	35/7	8a.m. – 8 p.m.	40 Hours/ 8 Hours

Children over the age of 14 may only be employed in light work, that is non-industrial work, where there is no risk to the safety and health of the child and which is not harmful to their attendance at school. 14 and 15 year olds must be given a 30 minute break if working more than 4 hours. If working during the summer holidays, 14 and 15 year olds must get two days off in every week, which must, as far as is

¹ The reference to “work experience” in the table above is to training or work experience programmes approved by the Minister for Enterprise, Trade and Employment or FAS.

practicable, be consecutive.

Summary of Provisions in Relation to Employment of Young People

Age	Max Hours per Day	Max Hours per Week	Permitted Hours of Work
16 and 17	8	40	6a.m. – 10p.m.

16 and 17 year olds must receive a 30 minute break, if working for more than a 4.5 hour period. They must receive two days off in every seven, which must, as far as is practicable, be consecutive.

Information on the above provisions is available from the Employment Rights Information Unit of the Department of Enterprise, Trade and Employment. That Department's explanatory booklet on the Protection of Young Persons (Employment) Act 1996 and a summary of the Act, in both poster and leaflet format, are available from the Department's website at www.entemp.ie.

Other sources of information on relevant legislation include the -

- (i) Health and Safety Authority's "Guide to the Safety, Health and Welfare at Work Act 2005", and
- (ii) Health and Safety Authority's "Guide to the Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 1 of Part 6: Protection of Children and Young Persons",

which are available from the Authority's website at www.hsa.ie.