

INTRODUCTION TO LAW

Lecture 6 –

The Subsidiary Legislations Part 5

Safety Regulations in the Construction Sector

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Undergraduate Diploma in
Occupational Health and Safety

Health and Safety at Work (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations S.L 646.27

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- Applicability – Non Exhaustive List
 - Excavation
 - Earthworks
 - Construction
 - Assembly and disassembly of prefabricated elements
 - Conversion or fitting-out
 - Alterations
 - Renovation or restoration
 - Repairs
 - Dismantling
 - Demolition
 - Upkeep
 - Maintenance – painting and cleaning work
 - Drainage

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- “Contractor” means a contractor, sub-contractors and to any employer whose workers undertake, carry out or manage construction work, including but not limited to the supply of materials and, or labour to carry out such work. A contractor shall also include a self-employed person unless expressly otherwise specified
- "client" means any natural or legal person for whom a project is carried out
- "project supervisor for health and safety matters" means any natural or legal person appointed by the client or the client's representative as the case may be, to carry out the duties and exercise the powers specified in these regulations throughout the project and whose name appears in the register for competent persons administered or otherwise delegated by the Authority

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• Duties of the Client:

- In the case of construction sites on which work is scheduled to last longer than thirty (30) working days and on which more than twenty (20) workers are occupied simultaneously, or on which the volume of work is scheduled to exceed five hundred (500) person-days, the client shall communicate a prior notice drawn up in accordance with Schedule III to the Authority, along with any other document or information required by the Authority from time to time, at least four (4) calendar weeks before work starts on the project. Once any work activity on the project commences, a copy of the prior notice in such form as prescribed by the Authority shall be clearly displayed on the construction site by the client and, if necessary, periodically updated by the project supervisor for health and safety matters (if not done, can incur a fine of up to €1,500)



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- Duties of Client
 - To appoint a Project Supervisor. They can only appoint a Project Supervisor if their name appears on the competent person register – **Meaning that Client has the obligation to check**
 - Prior to appointing a PS, there shall be an **engagement agreement** regulating the appointment of PS. Between the Client, Client representative (where applicable) and the Project Supervisor.
 - Works shall not commence unless client is appointed and name notified to OHSA
 - In case of demise of PS, the Client shall inform OHSA within 15 days. **In the meantime, works shall NOT proceed**
 - Where appointment of PS is terminated, the OHSA shall be informed within 15 days. Termination shall be effective upon notice to OHSA. PS to remain responsible until notice is served
 - Notice shall be written and signed.



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- Duties of Client

- Until new PS is appointed, works shall NOT start/proceed
- If client carries out any works without an appointed PS, client (or client representative) will be guilty of an offence against the Act (max fine €1,500)
- The client shall ensure that any directions given by the project supervisor for health and safety matters in ensuring a safe and, or healthy place of work, are implemented and the client shall take all reasonable measures to ensure that duty holders abide by their obligations within the limits of their respective responsibilities.
- The Client shall keep the PS updated about new contractors or self employed persons
- The client shall keep a health and safety file and must transfer it to the person who acquires the property if this is the case (failure to do so will be liable to a fine of a maximum €500)
- The client must ensure that a health and safety plan is in place before start of works (max fine €500)
- In case where works exceeds 500 person days, the client shall send a prior notice to the Authority, four calendar weeks before the start of works (max fine €1,500)



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- **Client Representative**
 - The Client can, on each and every project appoint a Client representative to be responsible for the implementation of its obligations on its behalf.
 - Appointment of this role is not obligatory but if a Client Rep is appointed, **any obligations imposed on the client shall apply mutatis mutandis and be carried out by the Client Representative.**
 - The below details need to be in place to formalise appointment of the client rep with OHSA
 - Date of appointment
 - Address of site
 - Description of project
 - Name/id/address/email/any contact details of the client rep
 - Declaration issued by the Authority duly filled and signed
 - When Client Rep resigns, the Authority shall be informed
 - In default of appointment, the client shall retain the responsibilities emanating on this legislation



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- Definition of Client Representative
 - "client representative" means any natural or legal person appointed by and responsible for the design and/or execution and, or supervision of the execution of a project, on behalf of the client, and to carry out the duties specified in these regulations; who shall fully assume responsibility and appear for the client

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- Responsibilities of Client or Client Representative
 - Appointment of a PS can be done either by the client or client representative
 - The fact that the PS has been appointed, **this does not relieve the client or client rep from their respective responsibilities**
 - With the appointment of the Client or Client Representative, the Employer's legal obligations shall NOT be affected
 - The **client shall take into account any report given in writing by the project supervisor for health and safety matters and shall take all reasonable measures to ensure that duty holders abide by their obligations within the limits of their respective responsibilities**



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• Duties of Project Supervisor at Preparation Stage

- PS at preparation stage shall coordinate safety matters with respect to architectural, technical, and organisational aspects and to plan works
- Coordinate during estimating period required for completion of works,
- Draw up a health and safety plan
- Prepare a health and safety file



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• Duties of Project Supervisor at Execution Stage

- Coordinate implementation of safety matters
- Coordinate provisions in the legislation to ensure that contractors, employers, workers and self employed persons
 - Apply safety principles
 - o Follow the health and safety plan
- Organise cooperation between contractors
- Take steps to allow only authorised persons on site
- Carry out as often as necessary inspections of the whole site and work practices identify hazards and recommend the necessary preventive and protective measures. Frequency of inspections shall commensurate with the size of the construction site, nature, and extent of hazards and risks at the construction site and the type of works being carried out

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Duties of Project Supervisor at Execution Stage

- Issue and submit without undue delay, to the relevant duty holders (client, client representative, project supervisor, employer, contractor, self employed person, worker, as the case may be – workers not included for this section), an inspection report in writing highlighting the measures being taken , identifying any potential hazards, risks, unaddressed hazards, and risks identified during inspection and corrective action to be taken by the relevant duty holders.
- Give directions in the interest of ohs,
- Coordinate, monitor the implementation of and **ensure the execution of the required preventive and corrective measures** indicated in the inspection report prepared under these regulations, and any other measures required to render the site safe



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- coordinate, monitor the implementation of and **ensure the execution of, the preventive and protective measures** indicated in the health and safety plan prepared in terms of these regulations;
- **carry out as often as necessary, follow-up inspections** to ensure the implementation of the preventive and protective measures indicated in the inspection report and any directions made and given out under these regulations;
- Give a written copy of the health and safety plan prepared in terms of these regulations, or a relevant extract thereof to all duty holders in terms of these regulations
- Consult and liaise on matters relating to occupational health and, or safety with respect to the construction project, **with any designated persons and, or external services appointed by the employer** in terms of regulation 9 of the General Provisions for Health and Safety at Work Places Regulations



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- Inspect at any time of day or night the site
- Make such examination, interview and investigation as may in any circumstances be necessary in the interest of occupational health and, or safety
- Take photographs, video recording and other recordings, including use of monitoring equipment deemed as necessary
- **to order that work or any activity be halted** or to give such orders in relation to the carrying out of duties by any employee or self-employed persons on the site if there is **reasonable concern that the carrying out of work and, or activity could likely expose any person present on the construction site to a serious risk to their health and, or safety, emanating from an immediate or imminent exposure to a hazard**



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- Provided that the project supervisor for health and safety matters shall, without undue delay, notify in writing the duty holders involved in the construction project. The project supervisor for health and safety matters shall inform the Authority of any ORDER made..... in such instances where such orders are NOT observed or complied with;
- **Require any** article, substance, material, equipment, machinery, installation, structure, apparatus, tools, **etc to be dismantled from site or rectified at the expense of the relevant duty holder**



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- Receive and register reports made by any person regarding possible breach of occupational health and safety
 - o Carry out a written report within 15 days from when matter was reported
 - o Once completed, give report to person making the report, to the client, or any of their representatives indicating measures which shall need to be implemented by the client, to ensure its obligation with legislations
- Ensure that any matters are implemented timely, and if not, to inform the OHSA and the client shall be guilty of an offence
- If Project supervisor makes wrong recommendations, the PS shall be liable to an offence under the Act



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- General Provisions of Health and Safety
 - Keep site clean and in good order
 - Safe passageways
 - Technical maintenance and pre-commission verifications of equipment
 - Demarcation and laying out of materials such as dangerous substances
 - Conditions under which dangerous materials used are removed
 - Storage, disposal, removal of waste and debris
 - Adaptation based on progress made and actual allocation for work and work stages
 - Interaction with industrial activities at the place within which or in the vicinity of which the construction site is located



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- Duties of Contractors:
 - Cooperate with PS
 - Cooperate with PS to enable compliance of duties of PS with this LN
 - Provide information requested to PS promptly
 - Comply without undue delay with any instructions give by the PS
 - **Comply with the directions given by THEIR competent person for OHS (in line with LN 36 of 2003- 9.(1) In any workplace, an employer shall designate one or more persons having the necessary aptitude, capabilities, competence and training to assist him in undertaking the measures which are required to be taken in relation to the protection of occupational health and safety and the prevention and control of occupational risks:)**
 - Comply with measures listed in the OHS Plan
 - **Bring to the attention of the workers any rules applicable in the health and safety plan**
 - **Not commence and/or progress any work before a PS has been appointed**



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- Carry out a **written, suitable, sufficient and systematic risk assessment** of all the Occupational health and safety hazards which may be present at the construction site and the resultant risk involved concerning all aspect of the work activity **for EACH project** and ensure that all workers are informed of its contents. Assessment shall consider the risks to health and safety of workers, self employed person, and other persons including visitors. Contractor shall keep a written or retrievable electronic copy of the assessments and ensure these are regularly updated. These shall be reviewed when there are major changes in conditions and when these are no longer valid
- **Comply without undue delay with the preventive and proactive measures indicated in the risk assessment**
- Ensure training, information, instructions is given to workers
- Take measures to implement the general provisions for health and safety and ensure that they adhere with:
 - **To implement as a minimum in line with schedule IV**
 - **To ensure PPEs**
 - **To follow Work Equipment Legislation**



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- Duties of Workers

- Cooperate with the project supervisor for the interest of safety
- Cooperate with the project supervisor to implement the safety required in the legislation
- Promptly provide the PS with information requested
- Comply with any directions given
- Comply with the measures indicated in the risk assessment
- Comply with measures indicated in the OHS Plan



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- Other Obligations
- **Information to workers**
 - Workers and their health and safety representative shall be informed of all the measures that shall be taken concerning their health and safety on the construction site.
- **Consultation and participation of workers**
 - Ensure proper coordination between workers and their representatives



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Description of Breach	Maximum penalty €	Responsible person
Failure to send a prior notice	1,500	Client/Client Representative
Failure to display a copy of the prior notice (Form B)	1,500	Client/Client Representative
Project supervisor failing to draw up a health and safety plan	2,500	Project Supervisor
Failure to prepare a health and safety file	1,500	Project Supervisor
Client fails to keep available the health and safety file	5,000	Client/Client Representative
Client fails to ensure that prior to setting up a construction site, a plan is drawn up	500	Client/Client Representative
Client fails to deliver health and safety file at the end of the works	500	Client/Client Representative



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Description of Breach	Maximum penalty €	Responsible person
Failure to ensure that scaffolding has been inspected and is safe for use	2,000	Contractor
Lifting devices and accessories were not displaying their maximum load values	1,500	Contractor
Failure to update health and safety plan	5,000	Client/project supervisor
Client failed to notify the Authority about the appointment of the project supervisor for health and safety matters	1,500	Client/Client Representative
Client failed to notify the Authority following the demise of the project supervisor for health and safety matters	1,500	Client/Client Representative
Project supervisor for health and safety matters failed to notify the Authority on his termination of engagement from acting as such.	500	Project Supervisor

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Description of Breach	Maximum penalty €	Responsible person
Project Supervisor failing to issue and submit a report	2,500	Project Supervisor
Project supervisor failing to give a copy of the health and safety plan to duty holders	2,500	Project Supervisor
Project Supervisor failing to do a report after a receiving a complaint	2,500	Project Supervisor
Project supervisor failed to register any report made by any person in relation to any matter which may give rise to suspicion of Breach of OHS	2,500	Project Supervisor
Project Supervisor failing to inform the Authority of any matter reported	2,500	Project Supervisor

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Description of Breach	Maximum penalty €	Responsible person
Project Supervisor fails to inform the Authority that his recommendations have not been implemented and adhered to	5,000	Project Supervisor
Contractor failed to carry out or keep a written copy of the risk assessment	2,500	Contractor
Contractor failed to update the risk assessment	2,500	Contractor



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