

Draft Guide to the Safety, Health and Welfare at Work (Reporting of Accidents, Illnesses and Dangerous Occurrences) Regulations 2012

1. INTRODUCTION

This guide is to assist you to understand the requirements as set out in the Safety, Health and Welfare at Work (Reporting of Accidents, Illnesses and Dangerous Occurrences) Regulations 2012 which came into operation on.....2012. *It is not intended as a legal interpretation of the legislation.* It should help you to understand why we need reports, what is reportable; what is not reportable, who should make the report and the manner in which the report should be made.

2. BACKGROUND – THE REASON FOR REPORTING

At the outset it is important to understand why the Health and Safety Authority (the Authority) requires reporting. In order to understand the prevalence of certain accidents and illnesses and the trends it is necessary to get up to date and reliable information. The reports provide the Authority with information to assist in targeting activities and to advise employers on strategies to help prevent injuries, ill health and accidental loss.

In these regulations, arising from the Safety, Health and Welfare at Work Act 2005 (the 2005 Act), the reporting of certain work related illnesses is a requirement. The illnesses are only those illnesses for which we expect data will be reliable and can assist us to address future prevention. They are illnesses which arise directly as a result of a discrete event.

Reports are generally not for the purpose of pursuing individual employers to penalise them or take enforcement action.

3. WHAT ARE ACCIDENTS, PERSONAL INJURY AND DANGEROUS OCCURRENCES

In the 2005 Act it tells us:

- “accident” means an accident arising out of or in the course of employment which, in the case of a person carrying out work, results in personal injury.
- “personal injury” includes –
 - (a) any injury, disease, disability, occupational illness or any impairment of physical or mental condition, or
 - (b) any death,
that is attributable to work.
- “dangerous occurrence” means an occurrence arising from work activities in a place of work that causes or results in

(a) the collapse, overturning, failure, explosion, bursting, electrical short circuit discharge or overload, or malfunction of any work equipment,

(b) the collapse or partial collapse of any building or structure under construction or in use as a place of work,

(c) the uncontrolled or accidental release, the escape or the ignition of any substance,

(d) a fire involving any substance, or

(e) any unintentional ignition or explosion of explosives,

as may be prescribed:

The dangerous occurrences are listed in Appendix 2.

There are three situations in which an accident, injury or illness occurs:

(a) arising out of the course of employment which results in personal injury. This could be an injury to a non employee/ member of the public.

For example - a load falls from a truck which is being used for work purpose, and causes an injury to a member of the public who is not at work.

(b) arising in the course of employment which results in personal injury. This could be an injury to an employee who may or may not be doing the work that is the subject of the accident.

For example - a shelving system collapses and injures an employee who is passing by the scene at the time of the collapse.

(c) arising out of the course of employment for the person carrying out the work resulting in personal injury. This could be an injury to an employee who is actually doing the work.

For example - an employee dislocates a shoulder while manually moving a heavy load.

So, an accident is an unplanned event resulting in death or injury such as a severe sprain, a laceration, broken bone, concussion, unconsciousness or ill-health or immediate sickness due to exposure to dangerous substances, such as fumes or gases. It does not include work related diseases which are caused by prolonged or repeated exposure to dangerous substances.

4. WHO IS RESPONSIBLE FOR REPORTING?

Employers, self-employed, landlords, owners and tenants all have a duty to report accidents, illnesses and dangerous occurrences to the Authority.

5. REPORTING REQUIREMENTS - EMPLOYERS

First, in relation to your employees:

In the case of fatal and non-fatal injuries:

- 5.1 You must report a death of your employee if this is as a result of an accident at work.

The accident may have taken place either at your place of work or at another employer's place of work.

The following are examples of reportable fatalities:

- Your employee is fatally injured as a result of being hit by a delivery truck in your yard.
- Your employee is fatally injured while driving on a public road for work.
- Your employee is fatally injured while carrying out contract work for another employer at their site.

- 5.2 You must report the death of your employee where this is as a result of an illness included in the list of illnesses (see Appendix 1). These illnesses are a selected extract from the EUROSTAT prescribed list of occupational illnesses. For the purpose of our regulations it includes only those illnesses that are a direct and immediate result of a discrete event.

- 5.3 You must report the injury of your employee as a result of an accident while at work where the injury results in your employee being unable to carry out their normal work for more than 3 consecutive days, excluding the day of the accident.

- 5.4 In calculating the days, you should include weekends and other non work days.

The following are examples:

- *An employee, which includes a trainee, who normally has Saturday and Sunday off work is injured on Wednesday and returns to work the following Monday.*
- A driver or a passenger is involved in a road traffic accident while driving or riding in the vehicle in the course of work and they are out of work for more than 3 days.

- An employee while lifting boxes on Monday hurts their back. They return to work on Thursday but they can only do light duties for the next week. Even though they were not absent for more than 3 days they could not perform their normal work for more than 3 days.
- 5.5 You must report any case where your employee dies as a result of an accident at work within one year of that accident, even if you had already reported the accident.
- 5.6 You must also report where your employee presents with an illness from the approved list which causes him or her to be unable to undertake their normal work for more than 3 consecutive days, excluding the day of the discrete event which resulted in the illness. (See 5.3 above for examples of how this duration is calculated.) In some cases it will be possible to immediately identify the illness directly as a result of the accident or discrete event.

For example - in the case of severe irritation to the skin immediately following contact with nitric acid. In other cases, it may be that your employee's diagnosis must be confirmed by a registered medical practitioner.

Second, in relation to non employees (non workers, members of the public, employees of another enterprise) at your place of work

- 5.7 You must report the death of a person who is not your employee and who is not at work but who dies from a fatal accident or illness, caused by a work activity at the place of work.

For example - if you are responsible for road works and a passer by member of the public is fatally injured by a reversing vehicle in the course of the work, then you must report that accident.

- 5.8 You must report the injury of a person who is not your employee and who is not at work but who is injured from a work activity if the injured person has had to be removed from the place of the accident to a hospital for treatment of the injury or condition.

The following are examples of incidents that must be reported:

- A member of the public slips on liquid that has been spilled in the process of shelf stacking in your shop and if the extent of the injury requires that they must be brought by ambulance or other vehicle to a hospital for treatment by a registered medical practitioner.

- A visitor to a factory is overcome by fumes which escape accidentally from a process being carried on there. The person is removed to hospital and treated by a registered medical practitioner.
- A patient with limited mobility is admitted to hospital for routine tests. During the tests the patient slips from the sling of the patient hoist and suffers a back injury which requires them to remain in hospital overnight for medical treatment
- There is a road collision involving your salesman driving for work in a fleet vehicle and a member of the public driving a car. The member of the public is required to be removed to and treated in hospital though discharged later that day. The salesman suffers no injury.

Third, in relation to a prescribed dangerous occurrence

Dangerous occurrences listed in Appendix 2 are required to be reported.

6. REPORTING REQUIREMENTS - SELF-EMPLOYED

- 6.1 If a self-employed person is fatally injured while working at their own premises the next of kin are not required to report the incident to the Authority. In such a situation the Authority will receive notification from the Garda or other emergency services and following investigation the Authority will ensure that the necessary data is recorded on the approved form.
- 6.2 If a self-employed person, for example a business sole trader, a farmer, a garage owner or an accountant, is injured or suffers an illness that is listed as a direct result of a discrete event, then that self-employed person is required to report this if it has caused him/ her to be unable to do their normal work for more than 3 consecutive days, excluding the day of the accident or exposure. It is worthwhile remembering here the reason for such reports. In the case of farmers, for example, there are many injuries that may be caused by manual handling but in the absence of reliable data it is difficult to pinpoint causes. Hence, the requirement for self reporting.
- 6.3 If a self-employed person is in control of a place of work in which there is a dangerous occurrence, they must report this to the Authority.

7. REPORTING REQUIREMENTS – LANDLORDS, TENANTS

If a landlord or tenant controls a place of work in which a self-employed person is fatally injured as a result of a work activity, the landlord or tenant is required to report this death to the Authority.

8. PRESERVING THE SCENE OF A FATAL ACCIDENT

All fatal accidents reported to the Health and Safety Authority are investigated by Inspectors. When employers or others notify the Authority of a fatal accident in a workplace they should, if they have control of the scene of the accident, discuss with an inspector of the Authority the extent to which the scene is to be maintained. The Gardai will ensure that the scene is left undisturbed until the Inspector of the Authority commences an investigation. Where appropriate, access should be restricted and items should not be removed. Employers may however take such steps as are necessary to make the scene safe.

9. ACCIDENTS, ILLNESSES AND DANGEROUS OCCURENCES THAT ARE NOT REPORTABLE

Where the patient of a registered medical practitioner dies, is injured or suffers ill health while undergoing medical treatment the incident is not reportable unless the treatment originally initiated is a result of a workplace incident. Medical treatment includes the administration of medicines by any route, surgical procedures, dressing of wounds etc.

Patient care which is part of everyday patient management is not medical treatment. Patient handling which includes the moving of patients, whether in bed or from place to place, is not medical treatment. Cleaning and bathing are other examples of patient care which are not medical treatment. In these circumstances an incident may be reportable.

The following are examples of non reportable incidents:

- Any occupational illness that cannot be linked with a specific accident, incident or exposure.
- If an employee or a self-employed person is absent as a result of an accident for more than three days separated over a period of time.
- If an employee is a victim of a road traffic collision while commuting to or from work.
- If an employee is the victim of a road traffic collision, either as a pedestrian or a driver while on an unpaid meal break from work.

10. WHEN AND HOW REPORTS SHOULD BE MADE

Fatal accidents and fatal illnesses in a workplace should be reported immediately to the Authority (e.g. by telephone) so that necessary action, including an investigation by the Authority can take place. Following the initial report and within five work days of the death, the formal written report should be made in the approved form. This applies to any work related death including one that takes place within a year of a previously reportable accident.

A non fatal accident, illness or dangerous occurrence should be formally reported in the approved form within ten working days of the event.

Written reports are best made using the on-line process through the Authority's website www.hsa.ie. This is easily accessible and takes less time and administration. Where this is impossible, the relevant form is available free of charge from the Authority by telephoning 1890 289 389.

11. REQUIREMENT TO KEEP RECORDS

Those who are required to report accidents, illnesses and dangerous occurrences under the Regulations are also required to keep records for a period of ten years from the date of the incident or illness diagnosis. The records can be kept in the same format as the report made – i.e. a copy of the report submitted will suffice to meet the obligation.

Appendix 1

List of Occupational Illnesses

Employers are required to report occupational illnesses from the list below and only resulting from a particular discrete accident, incident or exposure, resulting in death or more than 3 days absence from work.

Occupational illnesses that cannot be attributed to a particular discrete accident, incident or exposure, or not on the list below are not required to be reported.

In addition to receiving information on occupational illnesses under these regulations the Health and Safety Authority also receives information on occupational illnesses from other reliable sources.

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110 Nickel or compounds thereof (only Nickel Carbonyl)	
111 Phosphorus or compounds thereof	Irritation of Skin and mucous membranes. Impairment of pulmonary function
113.01 Oxides of sulphur	Irritation of Skin and mucous membranes. Impairment of pulmonary function
113.02 Sulphuric acid	Irritation of Skin and mucous membranes. Impairment of pulmonary function
113.03 Carbon disulphide	Irritation of Skin and Mucous membranes
115.01 Chlorine	Irritation of Skin and mucous membranes. Impairment of pulmonary function
115.02 Bromine	Irritation of Skin and mucous membranes. Impairment of pulmonary function
115.04 Iodine	Irritation of Skin and Mucous membranes
Medical conditions caused by the following chemical agents resulting in 3 or more days absence from work	Precise nature of effect
115.05 Fluorine or compounds thereof	Irritation of Skin and mucous membranes. Impairment of pulmonary function
116 Aliphatic or alicyclic hydrocarbons derived from petroleum spirit or petrol	Irritation of Skin and Mucous membranes, narcosis
117 Halogenated derivatives of the aliphatic or alicyclic hydrocarbons	Irritation of Skin and Mucous membranes, narcosis, Damage to Trigeminal Nerve (Trichlorethylene)
102 Beryllium (glucinium) or compounds thereof	Irritation of Skin and mucous membranes
118 Butyl, methyl and isopropyl alcohol	Irritation of Skin and Mucous membranes
103.01 Carbon monoxide	Convulsion, coma, cardiopulmonary arrest, foetal death if pregnant woman is exposed
119 Ethylene glycol, diethylene glycol, 1,4-butanediol and the nitrated derivatives of the glycols and of glycerol	Irritation of Skin and Mucous membranes
103.02 Carbon oxychloride	Delayed Pulmonary Oedema
120 Methyl ether, ethyl ether, isopropyl ether vinyl ether, dichloroisopropyl ether, guaiacol, methyl ether and ethyl ether of ethylene glycol	Irritation of Skin and Mucous membranes, Narcosis, Chemical Asphixiation
104.02 Cyanides and compounds thereof	Chemical Asphixiation
124.02 Isocyanates	Irritation of Skin and Mucous membranes
104.03 Acetone, chloroacetone, bromoacetone, hexafluoroacetone, methyl ethyl ketone, methyl isobutyl ketone, or compounds thereof,	Irritation of Skin and Mucous membranes, Narcosis
105 Cadmium or compounds thereof,	Chemical Pneumonitis
124.02.02 Acetyl chloride, nitroacetyl chloride, methylcyclohexanone	Chemical Pneumonitis, Acute CNS toxicity
108 Magnesium phosphates thereof	Irritation of Skin and Mucous membranes
109.01 Organic acids	Irritation of Skin and Mucous membranes
109.02 Oxides of nitrogen	Irritation of Skin and Mucous membranes, impairment of pulmonary function
125 Aliphatic nitrated derivatives	Irritation of Skin and Mucous membranes
109.03 Ammonia	Irritation of Skin and mucous membranes, impairment of pulmonary function
126.01 Benzene or counterparts thereof (the counterparts of benzene are defined by the formula: C _n H _{2n-6})	Irritation of Skin and Mucous membranes, narcosis
126.02 Naphthalene or naphthalene counterparts (the counterpart of naphthalene is defined by the formula: C _n H _{2n-12})	Irritation of Skin and Mucous membranes, narcosis, Hemolytic anaemia
126.03 Vinylbenzene and divinylbenzene	Irritation of Skin and Mucous membranes, narcosis

Infectious and parasitic diseases	
401 Infectious or parasitic diseases transmitted to man by animals or remains of animals	Infection
402 Tetanus	Infection
403 Brucellosis	Infection
404 Viral hepatitis	Infection
405 Tuberculosis	Infection
406 Amoebiasis	Infection
407 Other infectious diseases caused by work in disease prevention, health care, domiciliary assistance and other comparable activities for which a risk of infection has been proven	Infection
Diseases caused by the following physical agents	
502.02 Conjunctival ailments following exposure to ultraviolet radiation	Keratoconjunctivitis, Photoretinitis
503 Hypoacusis or deafness caused by noise (Explosive noise only)	Rupture tympanic membrane, neurosensory hearing loss
504 Diseases caused by atmospheric compression or decompression	Barotrauma, Decompression illnesses
506.11 Pre-patellar and sub-patellar bursitis (physical accident only)	
506.12 Olecranon bursitis (physical accident only)	
506.13 Shoulder bursitis (physical accident only)	
508 Diseases caused by ionising radiation	Radiation Syndrome

Dangerous Occurrences

The list of dangerous occurrences is designed to obtain information mainly about incidents which rarely happen but which have a high potential to cause death or serious injury (even though they do not actually cause death or report or reportable injury). Collecting the information gives the Health and Safety Authority the chance to learn about the circumstances in which they occur and about their causes. This increases the pool of information which can be used to help business in accident prevention work.

In some cases it may not be clear immediately whether an incident has a high potential to cause injury. In such cases it is better for the responsible person to make a judgement so a prompt report can be made, rather than waiting until the potential to cause injury is confirmed by tests, further investigation etc. Such a delay could lead to the loss of valuable information relating to the incident.

Vehicles lifting and mobile machinery, etc.

1.(1) *The collapse of, the overturning of, or the failure of any load-bearing part of—*

- (a) any lift or lifting equipment;*
- (b) any excavator; or*
- (c) any pile-driving frame or rig having an overall height, when operating, of more than seven metres.*

(2) The overturning of any vehicle or 'ride-on' mobile work equipment and/or its towing equipment.

(3) The load-shift/ loss of load from

- (a) any vehicle;*
- (b) any mobile machine; or*
- (c) any towing equipment*

causing a serious risk to a person at work.

(4) The failure or malfunction of any lifting equipment associated with a diving project which puts a diver at risk.

Pressure vessels

2. The explosion, collapse or bursting of any closed vessel, including a boiler or boiler tube, in which the internal pressure was above or below atmospheric pressure.

Explosion or fire

3. An explosion of fire occurring in any plant or place of work.

Escape of flammable substances

4. *The sudden uncontrolled release of one tonne or more of highly flammable liquid, liquefied flammable gas, flammable gas or flammable liquid above its boiling point from any system, plant or pipe-line.*

Collapse of scaffolding

5. *The collapse or partial collapse of any scaffold more than five metres high, including, where the scaffold is slung or suspended a collapse or part collapse of the suspension arrangements (including an outrigger) which causes a working platform or cradle to fall more than five metres.*

Collapse of building or structure

6. *Any unintended collapse or partial collapse of –*

(a) any building or structure under construction, reconstruction, alteration or demolition, or of any falsework, involving a fall of more than five tonnes of material; or

(b) any building being used as a place of work, not being a building under construction, reconstruction, alteration or demolition.

The “falsework” referred to in paragraph 7(a) means a temporary structure or frame that supports something that is being built.

Examples of incidents reportable under paragraph 7 would include the collapse of a heavily loaded floor in a building or the collapse of a wall as a result of a vehicle colliding with a building used as a work premises.

Escape of a substance

7. *The uncontrolled or accidental release or the escape of any substance, which, having regard to the nature of the substance and the extent and location of the release or escape, might have been liable to cause serious injury to any person.*

Examples of the kinds of incident involving substances which would be covered by the definition are escapes arising from the failure or breakage of materials, apparatus, equipment, process plant, pipework, storage vessels, tanks, pipe-line, conveyance tanker, land-fill site, exploratory land-drilling site and spillages from containers and equipment.

Release of substances from plant etc during the normal course of operation or maintenance (e.g. during sampling, packaging or draining of lines) that are sufficiently well controlled to ensure that no person is put at risk would not be reportable.

Chemical substances covered by this definition may be in any form - liquid, solid (e.g. powder), gaseous or vapour and may include, for example:

(a) substances which may be hazardous to health (e.g. asbestos, phosgene, toluene diisocyanate);

- (b) substances which may be either corrosive or potentially hazardous by virtue of their temperature or pressure (e.g. nitric acid, molten metal, liquid nitrogen);
- (c) flammable substances which may, depending upon the circumstances of the escape, present a fire or explosion hazard (e.g. oxygen, acetylene).

The decision as to whether or not an incident is reportable depends upon factors such as the nature of the substance and its chemical, physical and toxicological properties, the amount which escaped and its dispersal and whether people could have been present at the time.

In the case of asbestos, the following are examples of uncontrolled activities likely to create a significant concentration of fibres in the air, thereby adding to the risk of developing an asbestos related disease:

- use of power tools (to drill, cut etc) on most asbestos containing materials (ACMS);
- Physical disturbance, such as knocking, breaking smashing of ACMs e.g. sprayed coating, lagging, asbestos insulating board (AIB);
- Manually cutting or drilling AIB;
- Aggressive physical disturbance of asbestos cement (AC), e.g. breaking or smashing.

Any of the work activities listed above could be regarded as dangerous occurrences. An employer should report as dangerous occurrences where they take place, or are repeated (without effective controls) for more than a ten minute period.

Substances also include micro-organisms. Accidents or incidents which may have resulted in the release of a biological agent and which could cause both severe human infection and human illness must be reported. Biological agents include both Group 3 and 4 agents as defined in the Safety, Health and Welfare at Work (Biological Agents) Regulations 2012. *(These Regulations are still the subject of final legal settlement)*

Explosives

8. *Any unintentional ignition or explosion of explosives.*

Freight containers

9. (1) *The failure of any container or of any load-bearing part thereof while it is being raised, lowered or suspended.*

(2) *In this paragraph –*

“container” means an article of transport equipment which is –

- (a) of a permanent character and accordingly strong enough for repeated use, and*
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading, and*
- (c) designed to be secured or readily handled or both, having corner fittings for these purposes, and*

- (d) of a size such that the area enclosed by the outer bottom corners is either
- (i) if the container is fitted with top corner fittings, at least 7 square metres, or
 - (ii) in any case at least 14 square metres

and includes a container when carried on a chassis but does not include a vehicle or packaging or any article of transport equipment designed solely for use in air transport, or a swap body except when it is carried by or on board a sea-going ship and is not mounted on a road vehicle or rail wagon.

"corner fittings" means an arrangement of apertures and faces at either the top or the bottom or both at the top and the bottom of the container for the purposes of handling, stacking and securing or any of those purposes.

Pipe-lines

10. Either of the following incidents in relation to a pipe-line –

- (a) the bursting, explosion or collapse of a pipe-line or any part thereof;
- (b) the unintentional ignition of a substance whether it ignites or not, which by its nature is liable to cause personal injury to any person.

Carriage of dangerous substances by road

11. Any incident in which a vehicle or tank being used for the carriage of dangerous goods by road –

- (a)
 - (i) overturns; or
 - (ii) suffers damage to the package or tank in which the dangerous goods are being conveyed, and
- (b) in which there is, in relation to such a package, container, bulk container or tank–
 - (i) an uncontrolled release or escape of the dangerous goods being conveyed; or
 - (ii) a fire which involves the dangerous goods being conveyed.

Breathing Aparatus

12. Any incident where breathing apparatus while being used to enable the wearer to breathe independently of the surrounding environment malfunctions in such a way as to be likely either to deprive the wearer of oxygen or, in the case of use in a contaminated atmosphere, to expose the wearer to the contaminant to the extent in either case of posing a danger to his health, but excluding such apparatus while it is being used in a mine or is being maintained or tested.

Overhead electric lines and underground electric cables

13. Any incident in which plant or equipment, or a person, either comes into contact with an overhead electric line or underground electric cable in which the voltage exceeds 200 volts or causes an electrical discharge from such an electric line or cable by coming into close proximity to it, unless in either case the incident was intentional, arising from or in connection with work activities.

Locomotives

14. Any accidental collision between a locomotive or a train and any other vehicle at a factory or at dock premises.

Bursting

15. The bursting of a revolving vessel, wheel, grindstone, or grinding wheel moved by mechanical power.