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# Occupational health and safety in the COVID-19 workplace

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A directive has recently been issued by the Department of Employment and Labour (dated 28 April 2020), which gives much needed guidance on what measures an employer would need to take to provide its employees with safety measures to protect against the risk of Covid19 exposure.

The Department of Employment and Labour directive on Covid19 Occupational Health and Safety Measures in Workplaces ("**The Covid19 OHSA Directive**") generally requires employers to follow the Regulations for Hazardous Biological Agents, issued under the Occupational Health and Safety Act (GN R1390 of 27 December 2001) (HBA Regulations). In addition the Covid19 OHSA Directive identifies the hazard posed by Covid19 as 'transmission by an infected person to workers in the workplace" and provides that the basic measures to eliminate this risk are "now well known."

With regard to the HBA Regulations:

- Coronaviridae are classified as a Category 2 Hazardous Biological Agent ("**HBA**");
- where there is an incident or exposure during work, in specified workplaces such as food production plants, or even in a general workplace, then in terms of Regulation 2(1)(b), an employer at whose operations such exposure has taken place must comply with the HBA Regulations.

Compliance with the HBA regulations in this regard would require that the employer must:

- involve its health and safety committee to train and inform employees of the risks, and instruct employees on the correct operating procedures to work in order to prevent risks associated with exposure to Covid19, as a strain of coronaviridae
- monitor exposure and impose medical surveillance on employees who may have been exposed;
- implement standards precautions and provide personal protective equipment, which would require hand washing by employees, as well for gloves, masks, eye protection, face shields to be provided to employee, and for the employer to implement environmental control measures to clean and disinfect surfaces. The employer is also required to control the exposure of persons to the HBA, by limiting numbers of workers, and introducing engineering control measures such as extraction systems to ensure proper ventilation.

In addition to the HBA Regulations, the Covid19 OHSA Directive specifically applies to employers and workers involved in the manufacturing of essential goods and providers of essential services. The Covid19 OHSA Directive requires implementing:

- administrative measures (including submission of its records of these administrative measures to the DoL if it employs more than 500 people);
- paid sick leave for employees who are sick or who have symptoms associated with Covid19;
- shift systems, staggered working hours, remote working arrangements or similar measures to achieve social distancing and minimisation of staff in the workplace;
- health and safety measures, including safety screening; provision of hand sanitisers; washing stations; cloth masks; provision of natural or mechanical ventilation systems, and if advised by the National Departments of Health, Communicable Diseases, or Institute for Occupational Health, to provide any other personal protective equipment required for a particular workplace.

There are minor relaxations for small businesses employing less than 10 people, but these small businesses are still required to provide masks, restrict employees with symptoms from working, arranging their workplaces so that employees are at least 1.5 metres apart, provide hand sanitisers, and to disinfect workstations regularly.

The Covid19 OHSA Directive provides useful clarity as to what types of masks and ventilation must be provided. In this regard, if mechanical ventilation systems are in place, they must be High Efficiency Particulate Air (HEPA) filters, which are regularly cleaned and maintained and which do not feed back into open windows. Masks must be cloth masks, of which at least two must be provided to employees. An employer must arrange for the washing, drying and ironing of these masks. These masks must also comply with requirements provided by the Department of Trade and Industry (click here for guidelines). The Department of Health has also now made it a legal requirement for all persons to wear cloth masks in public places.

OHSA inspectors have the powers under OHSA, to enforce the HBA Regulations and the Covid19 OHSA Directive, and have the legal authority to enter premises to conduct an inspection, and may direct an employer to cease performing any act, which threatens the health of safety of any person. Inspectors may also "block, bar, barricade or fence off that part of the workplace, plant or machinery to which the prohibition applies, and no person shall interfere with or remove such blocking, bar, barricade or fence."

Since the Covid19 OHSA Directive applies in respect of any operations being conducted under the Essential Services Regulations, which at present are the only businesses which are allowed to operate, and since the Covid19 OHSA Directive gives specific direction as to what measures should be implemented by employers, these directions should be adhered to over and above the HBA Regulations.

Employers are encouraged to take all of the necessary steps to ensure that their workplaces are safe for their employees.




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