

ACTS SUPPLEMENT

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Act 9 Occupational Safety and Health Act 2006

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2006

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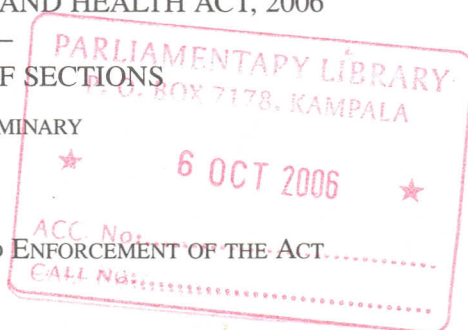
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THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2006.

An Act to consolidate, harmonize and update the law relating to occupational safety and health; to repeal the Factories Act, Cap 220 and to provide for connected matters.

DATE OF ASSENT: 24th May, 2006.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY**1. Commencement**

This Act shall come into force on a date to be appointed by the Minister by statutory instrument and different dates may be appointed for the commencement of different provisions.

2. Interpretation

In this Act, unless the context otherwise requires—

“air receiver” means any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air, connected with an air compressing plant or any fixed vessel for containing compressed air or compressed exhaust gases, used for the purpose of starting an internal combustion engine;

“area under the influence of” includes any area where the fall of the contaminant released directly or indirectly from an undertaking may come to rest or be present and cause its deleterious effect whether in its original form or in a chemically modified form through natural processes having been carried there by prevailing wind, rain water run-off or by any other natural agent, and any area where dangerous levels of the contaminant may be present and cause its effects, having been taken there through the effluent or other waste disposal methods used at the undertaking;

“**article**” means solid, liquid or gas or any of their combination or **any plant** designed for use or operation (whether exclusively or not) by persons at work or any article designed for use as a **component** in any plant or work process;

“**authorised person**” means in relation to the performance of any **function or duty** under this Act, a person who is authorised **in writing by** the Commissioner for Occupational Safety and Health, **to perform** that function or duty;

“**bodily injury**” includes injury to health;

“**building operation**” means the construction, structural alteration, repair or maintenance of a building (including re-painting, re-decoration and external cleaning of the structure), the demolition of a building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“**chemical substance**” means any natural or artificial substance intended for use in any physical state whether gaseous, liquid or solid and in particular includes; pesticides, fungicides, fumigants, herbicides, wood preservatives, fertilizers, growth control chemicals, industrial chemicals, laboratory chemicals, solvents, pharmaceuticals and food preservatives and food additives;

“class or description” in relation to a workplace, includes a group of workplaces described by reference to locality;

“Commissioner” means the Commissioner for Occupational Safety and Health and includes any other inspector authorised to act on his or her behalf, by the appointing authority;

“competent authority” means a government department, or other public authority with the power to issue regulations, orders or other instructions having the force of law;

“competent person” means a person with suitable training and sufficient knowledge, experience and skill for the performance of specific work;

“confined space” includes any chamber, vat, pit, pipe, flue, tank, drain, sewer, still, tower or any other confined space (other than a steam boiler) where there may be a concentration of dangerous fumes, toxic materials or substances, harmful liquids or lack of oxygen, that cause danger to the health of an employed person;

“currency point” has the meaning assigned to it in Schedule 1;

“dangerous occurrence” means a readily identifiable event, with potential to cause an injury, or disease to persons at work or the public;

“driving-belt” includes any driving strap or rope;

“fatal occupational injury” means occupational injury leading to death;

“fume” includes gas or vapour;

“gas” means any combustible gas produced for the purpose of heating or lighting;

- “class or description” in relation to a workplace, includes a group of workplaces described by reference to locality;
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- “fume” includes gas or vapour;
- “gas” means any combustible gas produced for the purpose of heating or lighting;

“gas plant” means any plant, apparatus or machine for generating gas (including any container holding compressed, dissolved or liquified gas under pressure) connected to a system of appliances or points and includes all pipes and appliances for storing the gas, or for conveying or regulating the flow of the gas to the places where it is to be used, but excludes any plant, apparatus, machine, pipes or appliances used solely in connection with a single private dwelling-house;

“General Register” means the register kept in accordance with the requirements of section 112;

“health” in relation to work means not merely the absence of diseases or infirmity, it includes the physical and mental elements affecting health which are indirectly or directly related to safety and hygiene at work;

“incident” means an unsafe occurrence arising out of or in the course of work where no personal injury is caused, or where personal injury needs only first-aid treatment;

“inspector” means an inspector appointed under this Act and includes the Commissioner;

“lifting appliance” means a pulley block, gin wheel, chain block, or set of chain blocks;

“lifting gear” means chains, ropes, chain slings, rings, hooks, shackles, swivels, eyebolts, lifting beams and scale beams;

“lifting machine” means a crane, crab, winch, teagle, runway, transport or forklift trucks used for raising or lowering persons or objects;

“machinery” includes any driving belt;

“maintained” means maintained in an efficient state, in efficient working order, and in good repair;

“Minister” means the Minister responsible for occupational safety and health;

“noise” means all sound which may result in hearing impairment or which may be harmful to health or which is dangerous, disagreeable or undesired;

“non-fatal occupational injury” means occupational injury which does not lead to death;

“occupational accident” means an occurrence arising out of or in the course of work which results in fatal occupational injury or non-fatal occupational injury;

“occupational disease” means a disease contracted as a result of an exposure to risk factors arising from a work activity;

“occupational injury” means any personal injury resulting from an occupational accident;

“occupier” means a person, using or occupying premises as a workplace or who is employing workers;

“owner” means a person for the time being, receiving the rents or profits of premises, on his or her own account or as an agent or trustee for any other person, or who would receive the rent if the premises were leased;

“plant” includes any machinery, equipment and appliance;

“premises” includes any place and, in particular includes any vehicle, vessel, air craft, installation or land, any off-shore installation or any other installation (whether floating or resting on a lake or river bed or the subsoil of the river bed or resting on land covered with water or the subsoil of the land), and any tent or movable structure;

“prescribed institution” means any department, organisation, institute or other body of an expert character prescribed by the Minister by statutory instrument;

“prime mover” means an engine motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;

“process” includes the use of any locomotive;

“radiation” means all frequencies of electro-magnetic wave spectrum including in particular microwaves, infra-red, visible and ultra-violet, X-rays, and also includes ionizing radiation such as (α) particles, (β) particles and (γ) rays which result from emission from radioactive isotopes;

“railway” means any railway used for the purpose of public traffic whether passengers, goods, or other traffic, and includes any works used in connection with and for the purposes of the railway;

“regulations” means regulations made under section 119;

“safe working load” means a load specified in a certificate of test obtained from a manufacturer or issued by an authorised person;

“safe working pressure” means in the case of a new steam receiver, that pressure that is specified in the manufacturer’s certificate or a certificate issued by an authorised person;

“sanitary conveniences” include urinals, water-closets, earth-closets, privies, ashpits and any similar conveniences;

“steam boiler” means any closed vessel in which for any purpose, steam is generated under pressure greater than atmospheric pressure, and includes any economiser used to heat water being fed to any vessel, and any super-heater used for heating steam;

“steam container” means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmospheric pressure, and through which steam is passed at atmospheric pressure or at approximately that pressure for the purpose of heating, boiling, drying, evaporating or other similar purpose;

“steam receiver” means any vessel or apparatus (other than a steam boiler, steam container, a steam pipe or coil, or part of a prime mover) used for containing steam under pressure greater than atmospheric pressure;

“transmission machinery” means every shaft, wheel, drum, pulley, coupling, clutch, driving-belt, or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance;

“work of engineering construction” means the construction of any railway line or siding, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewage, sewage works, or gas-holder, and includes any other works as may be specified by the Minister, by a statutory instrument;

“worker” means a person who performs work, regularly or temporarily for an employer and includes a public officer;

“working environment” means all places of work and all sites and areas where work is carried out including not only the permanent, indoor, stationary places of work, such as factories, offices and shops but also temporary places of work such as civil engineering sites, open-air places such as fields, forests, roads, oil refineries and mobile places of work such as cabs of trucks, seats of tractors and excavators, ships, galleys, freight decks of aircraft, and

without exception; places where workers are found as a consequence of their work (including canteens and living quarters onboard ships);

“workplace” has the same meaning as “working environment”;

“vibration” means any vibration which is transmitted to the human body through solid structures and is harmful to health or is dangerous.

PART II—ADMINISTRATION AND ENFORCEMENT OF THE ACT

3. Appointment of inspectors

(1) Subject to any written law relating to the appointment of a person to the public service, there shall be appointed a Commissioner and any other inspectors as are necessary for the purposes of this Act.

(2) Notice of the appointment of an inspector shall be published in the *Gazette*.

(3) Every inspector shall be provided with a certificate of appointment, and shall while visiting a workplace to which this Act applies if required, produce the certificate to an occupier or to a person holding a responsible position of management at the workplace.

4. Administration of the Act

The Commissioner shall be responsible for the administration of this Act.

5. Duty of confidentiality by inspectors

(1) An inspector shall treat as confidential the source of any complaint of a contravention of this Act, brought to his or her notice and shall not disclose to an occupier or his or her representative, that the visit is made in consequence of the complaint.

(2) An inspector who contravenes subsection (1) commits an offence.

6. Powers of inspectors

An inspector shall, for the purpose of the execution of this Act, have power—

- (a) to enter, inspect, and examine, during the day or at night any workplace and every part of it, where he or she has reasonable cause to believe that any person is employed in it;
- (b) to enter, inspect and examine during the day, any place which the inspector has reasonable cause to believe to be a workplace and any building of which a workplace forms part and in which he or she has reasonable cause to believe that explosives or highly inflammable materials are stored or used and to exercise such powers as may be necessary to inspect any machinery, plant, appliance, fitting or chemical in the workplace;
- (c) to be accompanied by a police officer to a workplace to be inspected and examined, where he or she has reasonable cause to encounter any serious obstruction in the execution of his or her duty;
- (d) to require the production of registers, certificates, notices and documents kept under this Act and to inspect, examine and make copies of any of them;
- (e) to make any examination or inquiry as may be necessary to ascertain whether this Act, is complied with, in respect of the workplace and any persons employed in it;
- (f) to require any person who he or she finds in a workplace to give any information which is in that person's power to give, regarding the occupier of the workplace;
- (g) to examine, either alone or in the presence of any other person, as he or she thinks fit, any person, with respect to any matters under this Act and to require that person to be examined; but that person shall not be required to answer any question or to give any evidence which tends to incriminate him or her;

- (h) in case of an inspector who is an occupational physician, to carry out any medical examinations as may be necessary for the purposes of his or her duties under this Act;
- (i) to take such measurements and photographs and make such recordings as he or she considers necessary for the purpose of any examination or investigation under paragraph (d);
- (j) to take samples of any article or substance found in any premises which the inspector has power to enter, and of the atmosphere in the premises or in the vicinity of the premises;
- (k) in the case of any article or chemical substance found in any premises which this Act applies, which appears to have caused or which is likely to cause danger to safety or health, to cause it to be dismantled or subjected to any process or test;
- (l) to take possession of any article or substance discovered and detain it for so long as is necessary for all or any of the following purposes—
 - (i) to examine it and do it anything he or she has power to do under this paragraph;
 - (ii) to ensure that it is not tampered with before his or her examination of it is completed; and
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to the breach of this Act.

7. Occupier to accord facilities to inspectors

An occupier of a workplace or his or her agents, shall furnish the means required by an inspector, necessary for an entry, inspection, examination, inquiry, the taking of samples or any alterations, for the exercise of his or her powers, in relation to that workplace.

8. Causing delay to, or obstruction of inspectors

(1) A person shall be deemed to obstruct an inspector in the execution of his or her duties where that person—

- (a) wilfully delays an inspector in the exercise of his or her duties or fails to comply with a request of an inspector;
- (b) fails to produce any register, certificate, notice or document which is required under this Act;
- (c) wilfully withholds any information regarding the occupier of a workplace;
- (d) conceals or prevents or attempts to conceal or prevent a person from appearing before or being examined by an inspector.

(2) Where an inspector is obstructed in any workplace, the occupier of the premises commits an offence.

(3) A person who obstructs an inspector commits an offence and is liable, on conviction to a fine not exceeding forty eight currency points, or a term of imprisonment not exceeding one year or both.

9. Powers of inspector to prosecute

(1) An inspector may prosecute or conduct, as the case may be before a magistrate's court any charge, information, complaint or other proceeding arising under this Act, or in the discharge of his or her duty.

(2) Where prosecution is brought at the instance of an inspector or where prosecution is conducted by an inspector, an objection to the competency of the inspector to give evidence as a witness in the prosecution shall not be sustained.

10. Establishment of the Occupational Safety and Health Board

(1) There is established the Occupational Safety and Health Board.

(2) The Minister shall, by statutory instrument, prescribe the membership of the Occupational Safety and Health Board.

(3) The Board shall give expert advice to the Minister on matters concerning occupational safety and health, welfare and the working environment.

(4) A person appointed to the Occupational Safety and Health Board shall hold office for a period to be specified by the Minister in the instrument of appointment.

(5) The salaries and emoluments of the members of the Occupational Health and Safety Board shall be determined by the Minister, with the approval of the Minister responsible for finance.

11. Advisory panels

The Minister may appoint an advisory panel as he or she may from time to time think necessary, to give advice or assistance on any workplace process, chemical, hazard, injury or disease.

12. Terms of service of members of advisory panels

(1) A person appointed to an advisory panel, shall hold office for a period to be specified by the Minister in the instrument of appointment.

(2) The salaries and emoluments of the members of an advisory panel shall be determined by the Minister with the approval of the Minister responsible for finance.

PART III—GENERAL DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF EMPLOYERS

13. Duty of employers to protect workers

(1) It is the responsibility of an employer—

- (a) to take, as far as is reasonably practicable, all measures for the protection of his or her workers and the general public from the dangerous aspects of the employer's undertaking at his or her own cost;

(b) to ensure, as far as is reasonably practicable, that the working environment is kept free from any hazard due to pollution by—

(i) employing technical measures, applied to new plant or processes in design or installation, or added to existing plant or processes; or

(ii) employing supplementary organisational measures.

(2) Without prejudice to the generality of an employer's duty in subsection (1), the matters to which the duty extends shall include in particular—

(a) the provision and maintenance of plant and systems of work that give, as far as is reasonably practicable, a safe working environment including its vicinity;

(b) arrangements for ensuring, as far as is reasonably practicable, safety and absence of risks to health, in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of adequate and appropriate information, instructions, training and supervision necessary to ensure, as far as is reasonably practicable, the safety and health of the employees, and the application and use of occupational safety and health measures, taking into account the functions and capabilities of the different categories of workers in an undertaking;

(d) as far as is reasonably practicable, regarding any workplace under an employer's control, the maintenance of the workplace in a condition that is safe and without risks to health, and the provision and maintenance of means of access to and exit from the workplace, that are safe and without such risks;

- (e) the provision and maintenance of a working environment for the workers, that is, as far as is reasonably practicable, safe, without risks to health and which is adequate, regarding facilities and arrangements for the welfare of workers at work;
- (f) the provision of correct information of the real and potential dangers of substances used in an undertaking including any toxicity tests and environmental impact assessment involved in the use of the substances, to all concerned;
- (g) the provision, where necessary, of adequate personal protective equipment to prevent, as far as is reasonably practicable, the risks of accidents or of adverse effects on health.

14. Safety and health measures of employers

(1) An employer who has at least twenty workers at a workplace shall—

- (a) prepare, and as often as may be appropriate, revise a written statement of policy with respect to the safety and health of employees while at work;
- (b) make arrangements for carrying out the statement of policy;
- (c) bring the statement of policy and any revision of it to the notice of all the employees.

(2) The guidelines for writing and checking the statement of policy are specified in Schedule 2.

15. Safety representatives

(1) The Minister shall make regulations to provide for the appointment, in prescribed cases, of safety representatives.

(2) It shall be the duty of every employer to consult a safety representative in the making and sustenance of arrangements, which enable the employer and the workers to co-operate effectively in promoting the development of measures to ensure the safety and health of employees.

16. Safety committees

(1) It shall be the duty of every employer, if requested to do so by safety representatives, to establish in accordance with regulations, a safety committee for a workplace with at least twenty workers.

(2) The safety representatives shall represent employees on a safety committee.

(3) A safety committee shall keep under review the measures taken to ensure the safety and health of employees and any other functions as may be prescribed.

17. Employer to consult with workers' organisations

(1) To give effect to this Act, an employer shall act in consultation with a workers' organisation and this consultation shall include—

- (a) consultation on the role of the workers' organisation in the practical implementation of measures prescribed under this Act;
- (b) as far as possible, providing close collaboration at all levels, between the employer and the workers in the application of the measures prescribed under this Act.

(2) A representative of the employers and a representative of the workers shall accompany an inspector or any other authorised person supervising the application of any measures prescribed under this Act, except where the inspector or authorised person is of the view that the accompaniment shall prejudice the performance of his or her duties.

18. Employer to monitor and control the release of dangerous substances into the environment

(1) Where there is major handling of chemicals or any dangerous substance which is liable to be airborne or to be released into rivers, lakes or soil and which are a danger to the animal and plant life, it shall be the duty of the concerned employer to arrange for equipment and apparatus to monitor the air, soil, and water pollution and to arrange for the actual monitoring of these mediums, with a view of rendering them safe from the dangerous undertaking.

(2) Records of monitoring in subsection (1) shall be kept and made available to an inspector.

19. Employer to provide protective gear

(1) Without prejudice to the duty in subsection (2), where the level of air pollution and chemical substances in a working environment exceed the exposure limits specified by an occupational hygienist, an employer shall provide adequate and suitable protective clothing and protective equipment to the workers of his or her undertaking.

(2) It shall be the duty of an employer to ensure that personal protective equipment provided under subsection (1) is used whenever it is required.

20. Employer to provide alternative suitable employment

Where an assignment involves continuous exposure to dangerous emissions or to substances and agents which are harmful to health, and it is certified to be medically inadvisable to continue the exposure, it shall be the duty of the employer to provide the worker concerned with suitable alternative employment.

21. Employer to supervise health of workers

(1) Subject to any conditions determined by the Commissioner, every employer shall provide for the supervision of the health of the workers exposed to or liable to be exposed to occupational hazards due to pollution and other harmful agents in a working environment and this duty shall include—

- (a) a pre-assignment medical examination of workers, before assignment to specific tasks which may involve danger to their health or of that of others;
- (b) periodic medical examinations of workers during employment which involves exposure to a particular hazard to health;

- (c) biological monitoring or investigations which may be necessary to control the degree of exposure and to supervise the state of health of the worker concerned;
- (d) regular medical examinations for biological or other tests or investigations after termination of assignments which may cause or contribute to future health impairment.

(2) In any case as may be prescribed by the Commissioner, an employer shall make adequate arrangements to provide occupational health service in an undertaking, to secure adequate health for the workers and for any other persons in the area under the influence of the undertaking.

(3) It shall be the duty of every employer to inform a worker concerned of any health hazards involved in his or her work.

22. Medical records of workers to be kept

(1) It shall be the duty of an employer to keep and maintain records of the medical examination information obtained under section 21, in a format and for a period to be prescribed by the Minister, and to avail these records for epidemiological and other research.

(2) To the extent determined by the Commissioner, records kept under this section shall include information on occupational exposure to air pollution and other harmful agents.

PART IV—GENERAL DUTIES OF EMPLOYERS AND THE SELF EMPLOYED

23. Employers' duty to persons other than employees

(1) It is the duty of an employer to conduct his or her undertaking in a way that ensures, as far as is reasonably practicable, that any person who is not in his or her employment but who may be affected by the undertaking, is not exposed to risks to his or her health and safety.

(2) Where two or more employers undertake activities simultaneously at one workplace, they shall have a duty to collaborate, in order to comply with the prescribed measures, without prejudice to the responsibility of each of the employers, for his or her workers.

24. Self-employed's duty to himself or herself and third parties

A self-employed person shall conduct his or her undertaking in a way that ensures, as far as is reasonably practicable, that he or she and any other person who may be affected by the undertaking is not exposed to risks to his or her health or safety.

25. Employer to display guide safety precautions

Every employer, including a self-employed person shall—

- (a) display or provide guide safety precautions to any persons who may be affected by the manner in which the employer conducts his or her undertaking, whether or not that person is his or her worker;
- (b) display all information in his or her possession or control concerning the way in which he or she conducts the undertaking, which may affect any person's health or safety.

26. Duty to provide safe premises

(1) It shall be the duty of a person, who has to any extent, control of premises to which this Act applies, to provide the means of access to and exit from the premises or any plan or substances in the premises and to take any measures that are reasonable for a person in his or her position to ensure, as far as is reasonably practicable, that the premises remain safe and without risk to health.

(2) For the purposes of subsection (1), a person shall be treated as the person who has control of the premises to which an obligation extends, where that person has, by virtue of any contract or tenancy, an obligation to—

- (a) maintain or repair the premises or any means of access to or exit from the premises; or
- (b) the safety of or the absence of risk to health arising from a plant or substances in the premises.

27. Duty of controller of premises to keep air free of pollutants

It is the duty of a person with control of premises to which section 26 applies, to use the best practicable means to prevent the emissions into the atmosphere from the premises, of toxic or offensive substances and to render harmless and inoffensive any substances that may be emitted.

PART V—GENERAL DUTIES OF MANUFACTURERS, SUPPLIERS AND TRANSPORTERS

28. General duties of manufactures, suppliers and transporters

(1) It is the duty of a person who designs, manufactures, imports or supplies any article, chemical substance or mixture of chemical substances, for use at work—

- (a) to ensure, as far as is reasonably practicable, that the article or chemical substance or mixture of chemical substances is designed or constructed or formulated to be safe and without risk to health when used properly and for the purpose for which it is meant;
- (b) to carry out or arrange for the carrying out of any testing and examination that may be necessary for the performance of the duty imposed on him or her by section 27, properly and for the purpose for which it is meant;
- (c) to take any steps that are necessary to ensure that there is available in connection with the use of the article, chemical substance or mixture of chemicals at work, adequate and clear information about the use for which the article, chemical substance or mixture of chemicals is designed and that it is tested, and that any conditions necessary to ensure that, when put to use, it will be safe and without risks to health.

(2) A duty imposed on any person by this Act shall extend only to things done in the course of a trade, business, or other undertaking carried on by him or her whether for profit or not and to matters within his or her control.

29. Joint and several liability of suppliers and receivers

(1) Where a person, in this section referred to as “the supplier”, designs, manufactures, imports or supplies any article, a chemical substance or mixture of chemical substances, to another person, in this section referred to as “the receiver”, the receiver and the supplier shall be jointly and severally liable to ensure the safety of the article, chemical substance or mixture of chemical substances.

(2) Notwithstanding subsection (1), a receiver is not liable for any loss or injury arising from any inherent defect of any article, chemical substance or mixture of chemical substances.

30. Duty of effective supplier

(1) Where a person, in this section referred to as the “the ostensible supplier”, supplies any article or chemical substance for use at work, to another person, in this section referred to as “the customer”, under a hire-purchase agreement or conditional sale agreement or credit-sale agreement, financed by a third person, in this section referred to as the “effective supplier”, the effective supplier and not the ostensible supplier shall be treated, for the purpose of the transaction as supplying the article or substance to the customer.

(2) Any duty imposed by this Part on a supplier shall accordingly fall on the effective supplier and not on the ostensible supplier, except in cases of inherent defects in the article or substance supplied.

31. Duty of designer or manufacturer to pre-test articles

It is the duty of any person who designs or manufactures any article for use at work, to carry out or to arrange to carry out any research necessary for the discovery and, as far as is reasonably practicable, to eliminate or minimize any risk to health or safety, which the design or article may give rise to.

32. Approved tests, examinations or research not to be repeated

Nothing in this Act shall be taken to require a person to repeat any testing, examination or research which has been carried out by any person, where it is reasonable for him or her to rely on results of a previous examination or research.

33. Importers to get relevant information

In circumstances to be prescribed by the Government occupational hygienist, it shall be the duty of a person who imports any article or chemical substance for use at work, to obtain adequate research information of its toxicity and harmful effects to the health of any worker exposed to it and to avail this information to any person concerned, in order to eliminate or minimize any risks to health or safety which the article or chemical substance may give rise to.

34. Pre-authorisation in cases of highly toxic chemical substances

The manufacture, supply, transport, use or disposal of chemical substances in a working environment, which the Government chemist or any other authority mandated by law considers highly toxic, or dangerous or capable of causing grave harm to health, the environment, or an undertaking shall be subject to specific authorisation by the Government chemist or other authorities, after measures are taken to ensure adequate protection.

PART VI—DUTIES, RIGHTS AND RESPONSIBILITIES OF WORKERS**35. Duty of workers to take care**

(1) It is the duty of every worker while at work—

- (a) to take reasonable care for the health and safety of himself or herself and of any other person who may be affected by his or her acts or omissions at work; and
- (b) as regards any duty or requirement imposed on an employer or any other person, by or under a statutory provision, to cooperate with the employer, as far as is necessary, to enable the duty or requirement to be performed or complied with.

(2) It is the duty of the representatives of the workers in an undertaking to cooperate with an employer in all measures to eliminate or minimize risks to health and safety at work provided in this Act and any other law.

36. Duty to report dangerous situation to immediate supervisor

(1) It is the duty of a worker to report immediately to a supervisor any situation which the worker has reasonable grounds to believe presents an imminent or serious danger to his or her life or health or to the life or health of any other persons in the premises.

(2) Where a worker makes a report under subsection (1), until the employer takes remedial action, where necessary, the employer shall not require the worker to return to a work situation where there is continuing imminent or serious danger to life or health.

37. Workers' right to move away from dangerous situation

A worker who removes himself or herself from a work situation which he or she has reasonable justification to believe presents an imminent and serious danger to his or her life or health shall not be punished or subjected to undue consequences, provided the danger is confirmed by the Commissioner.

38. Workers not to be penalized for complying with Act

An employer shall not levy or permit to be levied on any worker any penalty in respect of anything done or provided under this Act.

39. Reckless or intentional interference with safety measures

A person who intentionally or recklessly interferes with or misuses anything provided in the interest of health, safety or welfare under this Act, commits an offence.

PART VII—REGISTRATION OF WORKPLACES

40. Commissioner to keep register

(1) The Commissioner shall keep a register of all workplaces, in the prescribed format.

(2) A person shall, not less than one month before he or she begins to occupy or use any premises as a workplace, serve on the Commissioner, a notice with the particulars prescribed in Schedule 3.

(3) Notwithstanding the requirement of subsection (2), a person may begin to occupy or use any premises as a workplace, less than one month after the notice required by this subsection has been served where—

- (a) the Commissioner issues in his or her name a certificate of registration under section 41; or
- (b) before serving the notice, the person takes over the premises from another person without changing the nature of the work and the notice is served as soon as practicable and in any case within one month of taking over the premises.

41. Certificate of registration

(1) Upon receipt of a notice in accordance with section 40, the Commissioner shall cause, after the appropriate fee is paid, a workplace to be registered and shall issue to an occupier a certificate of registration, in his or her name, in the form prescribed in **Schedule 4**.

(2) A person shall, within six months from the time of occupying a registered workplace, be served **with a notice by the Commissioner**, requiring the occupier to set up **a safety committee**, where applicable.

(3) A certificate of registration **shall bear an embossed** stamp of the Occupational Safety and **Health Department** and shall be renewable every three years.

(4) On the commencement of this Act, an occupier of a workplace which is already registered, shall return the certificates of registration, to the Commissioner who shall issue a new certificate bearing the embossed stamp referred to in subsection (3), on the payment of the prescribed fee.

(5) A person who occupies or uses any premises as a workplace contrary to section 40 and this section commits an offence and is liable, on conviction, to a fine not exceeding forty eight currency points or to imprisonment for a term not exceeding one year or both and to a further fine not exceeding two currency points or to a term of imprisonment not exceeding one month or both for every day during which the contravention continues after conviction.

42. Construction on workplaces to be approved by Commissioner

A plan and any architectural drawings of a new workplace and of any alterations of an existing workplace shall be submitted to the Commissioner for approval, before the construction of buildings or alterations of existing buildings of workplaces begins.

43. Commissioner may vary register

The Commissioner may vary or delete an entry in the register of workplaces, in respect of any premises, where he or she is satisfied that the variation or deletion has become necessary, to maintain the accuracy of records, and may, in the same instance, vary the certificate of registration issued in respect of the premises.

44. Commissioner to be notified on use of mechanical power

An occupier shall notify the Commissioner in writing, of the full particulars of any mechanical power used at a workplace, not less than one month before the date upon which the mechanical power is first used in the workplace.

PART VIII—HEALTH AND WELFARE

45. Buildings at workplace to be of sound construction, etc

(1) Where a worker has to work in, or in the course of his or her work to pass through, any part of a building, that part of the building shall be of sound construction and shall be kept in a good state of repair.

(2) Every building used as a workplace shall—

(a) be designed to protect workers from the weather;

- (b) have a water-tight roof; and
- (c) be free from any significant amount of dampness that is liable to affect the safety of the building or the health of the workers.

(3) Where any process carried out in a workplace renders the floor of a building of the workplace liable to be wet to an extent that necessitates the wetness to be removed by drainage, a drainage system shall be provided and maintained in the building.

46. Workplaces to be kept clean

(1) Every workplace shall be kept in a clean state and free from effluvia arising from any drain, sanitary convenience or other nuisance.

(2) Without prejudice to the generality of subsection (1)—

- (a) any accumulation of dirt and refuse shall be removed daily by a suitable method from the floor and benches of workrooms, and from the staircases and passages;
- (b) the floor of every workroom shall be cleaned at least once in every week by an effective and suitable method;
- (c) inside walls and partitions, ceilings or tops of rooms, walls, sides, tops of passages and staircases, shall—
 - (i) where they have a smooth impervious surface, be washed with hot water and soap or cleaned by some other suitable method, at least once every fourteen months;
 - (ii) where they are kept painted with oil paint or varnished, be re-painted or re-varnished at least once every seven years, and at least once every fourteen months be washed with hot water and soap or cleaned by some other suitable method; and
 - (iii) in any other case, be kept whitewashed or colour-washed and the whitewashing or colour-washing be repeated at least once every fourteen months.

47. Healthy and safe working environment

(1) A suitable room temperature shall be secured for workers in buildings, having regard in any workplace, to the numbers of workers, the ventilation and air movement, the air humidity and temperature of the surroundings.

(2) A workplace shall not, while work is being carried on, be so over-crowded, so as to cause risk of injury to the health of the workers.

(3) Every workroom shall not be less than three metres in height, measured from the floor to the lowest point of the ceiling or where there is no ceiling, to the lowest point of the roofing material.

(4) There shall be made an effective and suitable system for securing and maintaining the circulation of fresh air, in each workroom.

(5) Where mechanical means of ventilation are used, they shall not be regarded as satisfactory unless they provide a supply of air that adequately removes odours and contamination of the atmosphere that arises from human occupation of the room.

48. Workplaces to have suitable lighting

(1) Suitable lighting, whether natural or artificial, shall be secured and maintained in every part of a workplace in which any person works or passes.

(2) All glazed windows and skylights used for lighting workrooms shall, so far as is practicable, be kept clean on both the inner and outer surfaces and free from obstruction, except in cases of whitewashing or shading of windows and skylights, for the purpose of mitigating heat or glare.

(3) All apparatus provided for producing artificial lighting shall be properly maintained.

49. Provision of adequate sanitary conveniences

In any building where work is carried out—

- (a) sufficient and suitable sanitary conveniences for the workers shall be provided, maintained and kept clean;
- (b) effective provisions shall be made for lighting the conveniences;
- (c) where persons of both sexes are or are intended to be employed, except in the case of buildings where the workers are all members of the same family, the conveniences shall have-
 - (i) proper, separate accommodation for persons of each sex;
 - (ii) separate approaches for each sex; and
- (d) the conveniences for each sex shall be indicated by a suitable notice.

50. Provision of adequate wholesome drinking water

An adequate supply of wholesome drinking water shall be provided and maintained at suitable points in a workplace, conveniently accessible to all workers.

51. Provision of adequate washing facilities

(1) An employer shall provide and maintain for the use of workers, adequate and suitable facilities for washing, which shall be conveniently accessible and kept in a clean condition.

(2) Where any premises become a workplace after the coming into force of this Act, the washing facilities shall be provided adjacent to the sanitary conveniences.

52. Cloakrooms

A suitable cloakroom shall be provided and maintained for the use of workers.

53. Facilities for sitting down

(1) Where workers have reasonable opportunity to sit during the period of their work, sufficient and suitable seats shall be provided and maintained by the employer, to enable the workers take advantage of the opportunity to sit.

(2) Where a substantial proportion of any work can be properly done while sitting, an employer shall provide and maintain, for each employee doing the work, a seat of a design, construction and dimension suitable for that work.

54. Facilities for meals

(1) Every employer shall provide and maintain adequate facilities for taking meals, due regard being made to the number of workers who remain on the premises during meal times.

(2) The facilities for taking meals shall be situated away from the habitual work positions and shall include tables and chairs or benches with backrests.

55. First aid at the workplace

(1) An employer shall provide a first-aid room or a room capable of being used for the purpose of administering first-aid.

(2) Where the provision of a first-aid room is not reasonably practicable, an employer shall provide and maintain a readily accessible first-aid box or cupboard of a prescribed standard.

(3) Where there are more than one hundred and fifty persons employed, an employer shall provide an additional box or cupboard for every additional fifty persons.

(4) For the purposes of this section—

(a) the number of workers in a workplace shall be taken to be the largest number of persons employed in it at any one time;

(b) a fraction of one hundred and fifty workers shall be taken as one hundred and fifty workers;

- (c) where the workers work in shifts, the calculation of the number of persons employed shall be according to the largest number of persons at work at any one time.

(5) A first-aid room, box or cupboard shall contain requisites of a nature and to a scale to be prescribed by the Minister; but in all cases the first-aid room, box or cupboard shall not contain articles other than those which are necessary for administering first-aid.

(6) A first-aid room, box or cupboard shall be under the charge of a responsible person and where more than a specified number of persons are employed, the person in charge shall be trained in first aid treatment.

(7) The person in charge of a first-aid room, box or cupboard shall be readily available during working hours.

(8) A notice stating the name of the person in charge of a first-aid room, box or cupboard shall be posted in a conspicuous place in the workplace.

PART IX—GENERAL SAFETY REQUIREMENTS

56. General safety requirements

(1) There shall, as far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has to work at any time.

(2) All floors, steps, passages, walkways and gangways, including any supports or supporting structure, shall—

- (a) be soundly constructed and properly maintained;
- (b) as far as is reasonably practicable, be kept free of obstructions which may cause a worker to fall or suffer any other injury;
- (c) be kept free of any substance likely to cause an employed person to slip.

(3) The staircases on the premises inside and outside a building shall have hand-rails and guard-rails which shall be properly maintained at all times.

(4) A staircase shall have—

- (a) at least one hand-rail throughout the length of the staircase;
- (b) a hand-rail on the open sided section and a lower rail in the gap between the hand-rail at the open-sided section and the tread-level, unless that gap is filled in a way that prevents persons from falling through.

(5) Where a staircase or any part of it is specifically liable to cause an accident because of its construction, or for any other reason, there shall be a handrail on each side of the staircase.

(6) All openings in floors shall be securely fenced except where the nature of the work renders such fencing impracticable.

(7) Ladders, trestles and similar immovable equipment, which enable employed persons to ascend and descend shall be of good construction, sound material and shall be properly maintained.

(8) There shall be maintained sufficient, clear and unobstructed space at every machine while it is in motion to enable work to be carried on without unnecessary risk.

(9) Where any person is to work at a place from which he or she is liable to fall a distance of more than one metre, unless the place affords secure foothold, and where necessary secure handhold, means shall be provided, as far as is reasonably practicable, by fencing or any other means for ensuring his or her safety.

(10) Every teagle opening or similar doorway used for hoisting or lowering goods or materials, by mechanical power or any other means, shall be securely fenced and provided with a secure handhold on each side of the opening or doorway and the fencing shall be properly maintained, except when hoisting or lowering of goods or material is being carried on at the opening or doorway, be kept in position.

(11) An excavation in the ground more than two metres deep shall, except when work is actually being carried on, be covered or fenced to prevent any person from accidentally falling in.

(12) Every tank, reservoir structure, pump, pit or hole of which the edge is less than one metre above the adjoining ground or platform and which contains liquid to a depth of one metre and thirty centimetres or more, and into which a person may fall with risk of drowning, shall be covered or fenced to prevent any person from accidentally falling in it.

(13) Where there is storage, stacking and destacking of goods or materials, including the creation and breaking of heaps, it shall be done in such a way and in such a position to prevent risk of injury to any person resulting from the collapse or fall of the goods or materials or their supporting structure.

(14) Where, a risk of collapsing or falling may arise, due to the quantity or nature of goods or materials, through addition or removal of the goods or materials, these operations shall be carried out by or under the supervision of a responsible person.

(15) Measures which are reasonable by way of control, enclosure or any other way shall be taken to ensure the security or safety of stored goods or materials which present a high risk of injury to any person through their inflammability, explosivity or toxicity.

PART X—FIRE PREPAREDNESS

57. Means of escape in case of fire

(1) All premises to which this Act applies shall have means of escape from fire, for workers, as may be reasonably required in the circumstances, and in determining what is required by way of escape, regard shall be paid to the number of persons expected to be working in the premises at any one time and to the number of persons other than employed persons expected to be in the premises at that time.

(2) All means of escape from fire shall be properly maintained and kept free from obstruction.

(3) The contents of any room in which a person is employed shall be arranged or disposed to provide a free passage way for the persons employed in the room, as a means of escape in case of fire.

(4) A door of a building of a workplace and of any room in it, which afford a means of exit for a person employed in the workplace shall not be locked or fastened in such a manner that it cannot be easily and immediately opened from inside.

(5) In the case of any workplace constructed or converted for use as a workplace after the commencement of this Act, all doors which afford means of exit from any building of the workplace for the persons employed in it, shall, except in the case of sliding doors, be constructed to open outwards.

(6) Every window, door, or other exit which afford means of escape in case of fire or giving access to it, other than the means of exit in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size.

(7) In every workplace to which this Act applies, effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire.

58. Fire extinguishing gadgets

In all workplaces subject to this Act, there shall be provided and maintained, to be readily accessible, means of extinguishing fire, which shall be adequate and suitable having regard to the circumstances of each case.

59. Safe keeping of inflammable substances

(1) All stocks of highly inflammable substances shall be kept in a fire-resistant store or in a safe place outside any occupied buildings.

(2) The store shall not be situated in a way that endangers the means of escape from the workplace or from any part of the workplace by persons employed in it, in the event of fire occurring in any part of the workplace.

60. Occupier's duty to ensure adequate fire response

It is the responsibility of an occupier to ensure adequate preparedness and response to any fire incidents in his or her premises.

PART XI—MACHINERY, PLANT AND EQUIPMENT**61. Fencing of dangerous machinery, plant, and equipment**

(1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, shall be securely fenced, whether the flywheel or prime mover is situated in an engine-house or not.

(2) The head and tail race of every water wheel and of every water turbine shall be securely fenced.

(3) Every part of an electric generator, motor or rotary converter and every flywheel directly connected to it, shall be securely fenced unless it is in such a position or of such construction that is safe to every person employed or working on the premises as it would be if it were securely fenced.

(4) Every part of the transmission machinery shall be securely fenced unless it is in such a position or of such construction that is safe to every person employed or working on the premises, as it would be if it were securely fenced.

(5) Every dangerous part of any machinery, other than a prime mover and transmission machinery shall be securely fenced unless it is in a position or of construction that is safe to every person employed or working on the premises, as it would be if it were securely fenced.

(6) The prime requirement for secure fencing shall be for an effective guard which may be fixed or interlocked but where this is not possible, the requirement shall be deemed to be satisfied where a device is provided which—

- (a) automatically prevents any employed person or his or her clothing from coming into contact with the dangerous parts; or

- (b) stops the machine immediately in case of approach by an employed person to a dangerous part.

(7) Any part of a stock-bar which projects beyond the headstock of a lathe shall be securely fenced unless it is in a position that is safe to every employee on the premises as it would be if it were securely fenced.

(8) All fencing or other safeguards provided under this Part of the Act shall be of substantial construction and shall be constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use.

62. Certificate of exemption

The Commissioner may, by certificate, subject to any conditions specified in the certificate, exempt an occupier from compliance with any of the requirements of section 61, where the Commissioner is satisfied that compliance with the requirements is unnecessary or impracticable.

63. Efficient control of power

(1) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on, by which power can promptly be cut off from the transmission machinery in that room or place, where there is eminent danger.

(2) Every machine intended to be driven by mechanical power shall be provided with an efficient starting and stopping appliance and the control of the starting and stopping appliance of which shall be in such a position as to be readily and conveniently operated by the person operating the machine.

(3) A driving belt shall, when it is not in use, be allowed to rest or ride upon a revolving shaft, which forms part of the transmission machinery.

64. Safe use of driving belts

Suitable striking gear or other efficient mechanical appliances shall be provided, maintained and used to move driving-belts to and from fast and loose pulleys which form part of the transmission machinery, and the gear or appliances shall be constructed, placed and maintained in a way that prevents the driving-belt from creeping back on the fast pulley.

65. Unfenced machinery

In determining, for the purposes of this Part, whether any part of a piece of machinery is in a position or of construction that is safe to every employee on the premises, as it would be if it were securely fenced—

- (a) no account shall be taken of any person carrying out, while a part of the machinery is in motion, an examination of the machinery or any lubrication or adjustment shown by the examination to be immediately necessary to be carried out while the part of machinery is in motion; and
- (b) in the case of any part of transmission machinery used in any process in a workplace in respect to which the Commissioner, by certificate is satisfied that, owing to the continuous nature of the process, the stopping of that part would seriously interfere with the carrying on of the process in the workplace, no account shall be taken of any person carrying out the work in the workplace by the methods and in such circumstances and subject to any conditions as may be specified in the certificate.

66. Where section 65 not to apply

Section 65 shall not apply where—

- (a) the examination, lubrication or any other operation is carried out by a person who—
 - (i) is sufficiently trained for the work and who is acquainted with the dangers of moving the machinery, arising in connection with the examination, lubrication or other operation;

(ii) is instructed on the steps to be taken in case of an emergency and who is immediately available within sight, or hearing of the person carrying out the examination, lubrication or other operation; and

(b) a ladder to use for the carrying out the examination, lubrication or other operation is securely fixed or lashed, or is firmly held by a person stationed at the foot of the ladder.

67. Machine driven by mechanical power to be encased

(1) Where any machine is intended to be driven by mechanical power—

(a) every set-screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be sunk, encased or effectively guarded in any way, to prevent danger; and

(b) all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is situated to be safe as it would be if it were completely encased.

(2) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire for use in a workplace, any machine to be driven by mechanical power which does not comply with the requirements of this section commits an offence and is liable, on conviction, to a fine not exceeding forty eight currency points or a term of imprisonment not exceeding one year or both.

68. Self-acting machines

(1) No traversing part of any self-acting machine and no material carried by it shall, if the space over which it runs is a space which any person is liable to pass in the course of his or her employment or at any other time, be allowed on its outward or inward traverse to run within a distance of five centimetres from any fixed structure which is not part of the machine.

(2) All practicable steps shall be taken by instructions to the person in charge of the machine to ensure that a person employed is not in the space between any traversing part of a self-acting spinning mule and any fixed part of the machine towards which the traversing part moves on the inward run, except when the machine is stopped, with the traversing part on the outward run.

69. Hoists and lifts

(1) Where a hoist or lift is newly taken into use in any premises (other than premises forming part of a workplace), the occupier shall, within one month after the date upon which the hoist or lift is first used, send to the Commissioner a written notice in the format specified in Schedule 5.

(2) Every hoist or lift shall be of good mechanical construction, sound material and of adequate strength, and shall be properly maintained.

(3) Every hoist or lift shall be thoroughly examined at least once every six months, or such longer period as the Commissioner may, by notice in the Gazette direct, by an authorised person, and a report of the result of every examination in the prescribed form and containing the prescribed particulars, shall be signed by the person who makes the examination and shall, within fourteen days, be entered in or attached to the General Register.

(4) Every hoist-way or lift-way shall be efficiently protected by a substantial enclosure fitted with gates, and the enclosure shall be of a nature that prevents any person from falling down the hoist-way or lift-way or coming into contact with any moving part of the hoist or lift, when the gates are shut.

(5) A gate in subsection (4) shall be fitted with efficient interlocking or other devices to ensure that it cannot be opened except when the cage of the platform is at the landing and that the cage of the platform cannot be moved away from the landing until the gate is closed.

(6) Every hoist or lift and every enclosure shall be constructed in a way that prevents any part of any person or any goods carried in the hoist or lift from being trapped between any part of the hoist or lift and any fixed structure or between the counter-balance weight and any other moving part of the hoist or lift.

(7) There shall be marked conspicuously on every hoist or lift the maximum working load which it can safely carry, and no load greater than the prescribed load shall be carried on any hoist or lift.

(8) The following additional requirements shall apply to a hoist and a lift used for carrying persons, with or without goods—

- (a) efficient automatic devices shall be provided and maintained to prevent the cage or platform from over-running;
- (b) every cage shall, on each side from which access is provided to a landing, be fitted with a gate, and for every gate efficient devices shall be provided to ensure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless all the gates are closed, and shall come to rest only when a gate is opened;
- (c) in the case of a hoist or lift constructed or reconstructed after the coming into force of this Act, a platform or cage suspended by a rope or a chain, shall have at least two ropes or chains separately connected with the platform or cage, with each rope or chain and its attachments capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices to support the platform or cage with its maximum working load, in the event of a breakage of the ropes or chains or any of their attachments, shall be provided and maintained.

(9) Every hoist-way or lift-way which passes through two or more floors, shall, subject to this subsection, be completely enclosed with fire-resisting materials, and all means of access to the hoist or lift

shall be fitted with doors of fire resisting materials; except that the hoist-way or lift-way shall be enclosed at the top only by material which is easily broken by fire or shall be provided with a vent at the top.

(10) For the purposes of this section, a lifting machine or appliance shall not be deemed to be a hoist or lift unless it has a platform or cage whose direction of movement is restricted by a guide.

(11) Where it is shown, to the satisfaction of the Commissioner, that it would be unreasonable in the special circumstances of a case, to enforce any requirement of this section, in respect of any class or description of hoist, lift, hoist-way, or lift-way, the Commissioner may, by statutory order, direct that the requirement shall not apply to that class or description.

70. Hoist or lift not connected with mechanical power

(1) Except for section 69 (4) and (7), this section does not apply to hoists and lifts which are not connected with mechanical power.

(2) The gates of the lifts and hoists to which this section applies, shall be kept closed and fastened except when the cage or platform is at rest at the landing.

71. Lifting gear

(1) Lifting gear of whatever material, shall not be used unless it is of good construction, sound and suitable material, adequate strength, free from patent defect and properly maintained.

(2) Lifting gear used to lift loads exceeding fifty kilograms shall not be used unless it is tested and examined by or on behalf of the manufacturer or by an authorised person and a certificate of the test and examination, specifying the safe working load, signed by or on behalf of the manufacturer or by the authorised person, is obtained and kept available for inspection.

(3) Every lifting gear, except a rope or a rope sling, shall, unless it is of a class or description exempted by the Commissioner by notice in the gazette, be annealed at least once every fourteen months or, in the case of chains used in connection with molten slag, once every six months, but any lifting gear which is not in regular use is to be annealed only when necessary.

(4) Subsection (3) does not apply to fiber ropes or fiber rope slings.

(5) Lifting gear shall not be loaded beyond its safe working load except by an authorised person or an inspector, for the purpose of testing the gear.

(6) An inspector may, at any time, test any lifting gear and may prohibit further use, if not satisfied that it is safe for the use to which it is put.

72. When lifting appliances and machines may be used

(1) A lifting appliance or lifting machine shall not be used unless—

(a) the appliance or lifting gear and every part of it including all the working gear and all plant or gear used for anchoring or fixing the appliance or machine is of good mechanical construction, sound material, adequate strength and substance, and free from patent defects;

(b) it is properly maintained; and

(c) it is tested and thoroughly examined by or on behalf of the manufacturer or by an authorised person and a certificate of the test and examination specifying the safe working load, signed by or on behalf of the manufacturer or by the authorised person is obtained and kept available for inspection.

(2) Subsection (1) does not apply to any lifting appliance used only to lift weights of one hundred kilograms or less.

(3) Every crane, crab and fork lift shall be provided with a readily accessible and efficient brake or other safety device, to prevent the fall of a load when suspended and to ensure that the load is effectively controlled while being lowered.

(4) Every hand winch shall be fitted with an efficient pawl capable of sustaining a safe working load.

(5) Every lifting appliance and lifting machine shall be plainly marked with its safe working load or loads and distinctive numbers or other means of identification, except that in the case of a *jib crane* which is constructed that the safe working load may be varied by raising or lowering of the jib, there shall be attached to the *jib case*, so as to be clearly visible to the driver, an accurate indicator showing the radius of the jib at any time and safe working load corresponding to that radius.

(6) A lifting appliance including a forklift, or lifting machine shall not be loaded beyond its safe working load except by an authorised person or an inspector for the purpose of testing the appliance or machine.

(7) A lifting appliance with a safe working load of more than one hundred and fifty kilograms or a lifting machine shall not be used unless the appliance or machine, as the case may be, and every part of it (including all working gear and all plant gear used for anchoring or fixing the appliance or machine) has been thoroughly examined by an authorised person, within a prescribed period, determined by its construction and conditions of service; provided that the period shall not exceed fourteen months or any longer period as the Commissioner may, by notice in the gazette, appoint and particulars of the examination are entered in the register kept in accordance with section 75.

(8) A lifting appliance and a lifting machine, including a gondola, shall be adequately and securely supported.

(9) A rope, chain or wire and every part of a stage, framework or other structure and a mast, beam, pole or other article of plant supporting any part of a lifting appliance or lifting machine, shall be

of good construction, sound material and adequate strength, having regard to the nature of lifting appliance, its lifting and reaching capacity and the circumstances of its use.

(10) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength, and have an even running surface and the rails or track shall be properly laid, adequately supported, and properly maintained.

(11) Where a person is employed or working on or near the wheel tracks of an overhead travelling crane in any place where he or she is liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within six metres of the place.

(12) Without prejudice to this section, where any person is employed or working in any place above floor level where he or she would be liable to be struck by an overhead travelling crane, effective measures shall be taken to warn him or her of the approach of the crane, unless his or her work is connected with or dependent on the movements of the crane to make the warning unnecessary.

(13) A lifting machine shall be operated by a person trained and competent to operate that machine, except that it may be operated by any other person who is under the direct supervision of a qualified person for the purpose of training.

(14) A person under eighteen years of age shall not be employed to operate any lifting machine driven by mechanical power or to give signals to the operator of such a machine.

(15) Every part of a load shall be adequately secured into the lifting machine when it is being lifted, to prevent danger arising to any person from slipping or displacement of the load.

73. Training of crane drivers, e.t.c.

The Minister may make regulations for the training of crane drivers, slingers, persons who give signals to crane drivers and works transport drivers.

74. Non-liability of inspectors, e.t.c.

An inspector or an authorised person, is not liable for any damage to a lifting appliance or lifting machine, caused in the course of a test.

75. Register of lifting gear

A register containing the particulars specified in Schedule 6 shall be kept in the workplace, with respect to lifting gear, lifting appliances and lifting machines, to which this Part applies.

76. Steam boilers

(1) A steam boiler and all its fittings and attachments shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) Every steam boiler, whether separate or one of a range, shall have attached to it—

- (a) a suitable safety valve separate from and incapable of being isolated by any stop-valve, which shall be adjusted to prevent the boiler from being worked at a pressure greater than the maximum permissible working pressure and which shall be fixed directly to, or as close as practicable to the boiler;
- (b) a suitable stop-valve connecting the boiler to the steam pipe;
- (c) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in kilograms per square centimetre and have marked upon it in a distinctive colour, the maximum permissible working pressure;
- (d) at least one water gauge of a transparent material or other type approved by the Commissioner, to show the water level in the boiler and where the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds seven kilograms per square centimetre, the gauge shall be provided with an efficient guard but which shall not obstruct the reading of the gauge;

- (e) where it is one of two or more boilers, a plate bearing a distinctive number which is easily visible, and means for attaching a test pressure gauge and a suitable fusible plug or an efficient low-water alarm device.

(3) Notwithstanding the generality of subsection (2), subsection (2) (a) shall not apply with respect to economizers, and subsection (2) (b), (c), (d) and (e) shall not apply with respect to economizers or superheaters.

(4) For the purposes of subsection (3), a lever-valve shall not be deemed as a suitable safety valve unless the weight is secured on the lever to prevent the boiler from being worked at a pressure greater than the maximum permissible working pressure.

(5) A person attending a steam boiler shall be properly instructed on his or her duties.

(6) A person shall not shall be allowed to attend to a boiler as a boiler attendant, unless he or she possesses a certificate of competence for boiler attendants issued by the Commissioner, which shall be displayed in the boiler house so as to be readily available for inspection by an inspector or an authorised person, whenever the boiler attendant is on duty.

(7) The Commissioner shall cancel any certificate due to negligence or incompetence of a boiler attendant, which results into a boiler accident.

(8) A person shall not enter or be in any steam boiler, which is one of a range of two or more steam boilers, unless—

- (a) all inlets through which steam or hot water may enter the boiler from any other part of the range are disconnected from that part; or
- (b) all valves or taps controlling the entry are closed and securely locked, and where the boiler has a blow-off pipe in common with one or more boilers or delivers into a

common blow-off vessel or sump and the blow-off valve or tap on each boiler is constructed in a way that it can only be opened by a key, which cannot be removed until the valve or tap is closed and it is the only key in use for that set of blow-off valves or taps.

(9) Work shall not be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled by ventilation or any other means, to make work safe for the person employed.

(10) The Minister shall make regulations for the efficient training of boiler operators.

77. Examination of steam boilers

(1) A steam boiler and all its fittings and attachments shall be thoroughly examined by an authorised person at least once every fourteen months, or a longer period as the Commissioner may, by notice in the gazette direct, and after any extensive repairs.

(2) Notwithstanding subsection (1), the person making the examination may specify in writing, a period exceeding fourteen months but not exceeding twenty four months within which the next examination is to be made.

(3) The following provisions shall apply to an examination under subsection (1)—

(a) a boiler shall be examined when it is cold and when the interior and the exterior have been prepared in the prescribed manner; except that the person making the examination may, in addition to examination when the boiler is cold, require it to be examined by an authorised person when it is under normal steam pressure;

(b) whether or not an examination by an authorised person when the boiler is under normal steam pressure is required in accordance with paragraph (a), on the first occasion when steam is raised after an examination has been carried out when the boiler is cold, a competent person shall inspect the fittings and attachments that require to be inspected by

the authorised person at the time of carrying out the examination when the boiler is cold and shall satisfy himself or herself, as far as is reasonably practicable, that they are in good working order and condition and that the safety valve is adjusted to prevent the boiler from being worked at a pressure greater than the maximum permissible working pressure; and

- (c) a certificate in the prescribed form, stating the fittings and attachments required to be inspected in accordance with paragraph (b), and that they were inspected and that the safety valve was adjusted to prevent the boiler from being worked at a pressure greater than the maximum permissible working pressure, shall be signed and dated by the competent person and entered into or attached to the General Register before the boiler is taken into use again.

(4) A report of the result of every examination, in the prescribed form and containing the prescribed particulars (including particulars of the maximum permissible working pressure and any other conditions as may be necessary for the safe working pressure and for the safe working of the boiler), shall, as soon as is practicable and in any case within twenty-eight days of the completion of the report, be signed by the person who makes the examination.

(5) For the purposes of this section relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(6) A steam boiler which has previously been used shall not be used in any workplace for the first time, until it is examined and reported on in accordance with this section.

(7) A new steam boiler shall not be used unless there is obtained from an authorised person, a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the tests to which the boiler and fittings have been submitted.

(8) The certificate shall be kept available for inspection, and the boiler shall be marked to enable it to be identified as the boiler to which the certificate relates.

(9) Where the report of any examination under this section specifies conditions for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those conditions.

(10) In this Part “maximum permissible working pressure” means—

(a) in the case of a new steam boiler, the pressure specified in the certificate referred to in subsection (7); and

(b) in case of a steam boiler which is examined in accordance with this section, the pressure specified in the report of the last examination of that boiler.

78. Steam receivers

(1) Every steam receiver and all its fittings shall be of good construction, sound materials, adequate strength, and free from patent defect and shall be properly maintained.

(2) Every steam receiver which is not constructed and maintained to withstand with safety, the maximum permissible working pressure of the boiler or the maximum pressure which can be obtained in the pipe connecting the receiver with any source of supply, shall be fitted with—

(a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure of the receiver from being exceeded;

(b) a suitable safety valve or other valve, adjusted to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as the safe working pressure is exceeded;

- (c) a steam pressure gauge, which shall correctly indicate the pressure of steam in the receiver in kilograms per square centimetre;
- (d) a suitable stop-valve;
- (e) a plate bearing a distinctive number, which shall be easily visible, except where only one steam receiver is in use.

(3) The safety valve and pressure gauge shall be fitted on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance to prevent the safe working pressure from being exceeded.

(4) For the purposes of subsection (2), except for subsection (2)(e), any set of receivers supplied with steam through a single pipe forming part of a single machine may be treated as one receiver, and except for subsection (2)(d) and (e), any other set of receivers supplied with steam through a single pipe may be treated as one receiver.

(5) Subsection (4) does not apply to a set of receivers unless the reducing valve or other appliance to prevent the safe working pressure from being exceeded, is fitted on the single pipe.

79. Examination of steam receivers

(1) Every steam receiver and all its fittings shall be thoroughly examined by an authorised person, as far as the construction of the receiver permits, at least once every twenty-six months or a longer period as the Commissioner may, by statutory order, direct.

(2) A report of the result of an examination in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure), shall be entered in or attached to the General Register, and the report shall be signed by the person who makes the examination.

(3) A steam receiver which has previously been used shall not be taken into use in a working place for the first time until it has been examined and reported on in accordance with subsections (1) and (2).

(4) A new steam receiver shall not be taken into use unless there is obtained from an authorised person, a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fitting have been submitted.

(5) The certificate shall be kept available for inspection, and the receiver shall be marked to enable it to be identified as the receiver to which the certificate relates.

(6) Every steam container shall be maintained in a way that ensures that the outlet is at all times kept open and free from obstruction.

80. Air receivers

(1) Every air receiver shall—

- (a) have marked upon it in a plainly visible form, the safe working pressure;
- (b) in the case of a receiver connected with an air compressing plant, be constructed to withstand with safety, the maximum pressure which may be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver from being exceeded;
- (c) be fitted with an accurate pressure gauge indicating the pressure in the receiver in kilograms per square centimetre;
- (d) be fitted with a suitable safety valve, adjusted to permit air to escape where the safe working pressure is exceeded;
- (e) be fitted with a suitable appliance for draining the receiver;
- (f) be provided with a suitable manhole, handhole, or other means which allows the interior to be thoroughly cleaned;
- (g) bear a distinguishing mark which shall be easily visible.

(2) For the purposes of subsection (1) relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver except that, where a suitable reducing valve or other suitable appliance to prevent the safe working pressure from being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the single pipe.

(3) Every air receiver and its fittings shall be of sound construction and properly maintained.

(4) Every air receiver shall be thoroughly cleaned and examined at least once every twenty-six months or such longer period as the Commissioner may, by statutory order, direct.

(5) Where a receiver of solid drawn construction is examined, the person making the examination may specify in writing a period exceeding twenty-six months but not exceeding four years within which the next examination is to be made.

(6) Where a receiver of solid drawn construction is constructed in a way that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of the internal examination.

(7) Every examination and test of an air receiver shall be carried out by an authorised person, and a report or the result of every examination and test, in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure) shall be entered in or attached to the General Register, and the report shall be signed by the person who makes the examination or test.

(8) An air receiver which was previously used shall not be taken into use in any workplace for the first time, until it is examined and reported on in accordance with this Act.

(9) A new air receiver shall not be taken into use unless there is obtained from an authorised person, a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fittings have been subjected.

(10) A certificate issued under subsection (8) shall be kept available for inspection and the receiver shall be marked to enable it to be identified as the receiver to which the certificate refers.

81. Commissioner's power to make exemption

The Commissioner may, by notice in the *Gazette* exempt from, sections 77, 78, 79 or 80, any class or type of steam boiler, steam receiver, steam container or air receiver, of which he or she is satisfied that the section from which it is exempt cannot be reasonably applied, and the exception may be unqualified or may be subject to any conditions as may be contained in the notice.

82. Gas plants

(1) All gas plants shall be of sound construction and properly maintained.

(2) The Minister may, in accordance with the procedure for making special rules set out in Schedule 7, make special rules—

- (a) specifying the nature of gas plants that may be used;
- (b) specifying the types of fittings and pipes that may be used in gas plants;
- (c) providing for the inspection of gas plants;
- (d) providing for the prohibition of the use of gas plants where they do not comply with or where they contravene any of the rules.

(3) For the purposes of this section “gas” means any combustible gas produced for the purpose of heating or lighting and “gas plant” means any plant, apparatus or machine for generating gas (including any container holding compressed, dissolved or liquefied gas under pressure) connected to a system of pipes intended to distribute the gas to two or more appliances or points and includes all pipes and appliances for storing the gas or for conveying or regulating the flow of the gas to the places where it is to be used, but does not include any plant, apparatus, machine, pipes or appliances used solely in connection with a single private dwelling house.

83. Handling of hazardous materials

(1) Where there may be escape of dust of a character and to an extent liable to explode on ignition, as a result of grinding, sieving or any other process which gives rise to dust, all practicable steps shall be taken to prevent the explosion—

- (a) by enclosure of the plant used in the process;
- (b) by removal or prevention of accumulation of any dust that may escape in spite of the enclosure;
- (c) by exclusion or effective enclosure of possible sources of ignition.

(2) Where there is dust of a character and an extent liable to explode on ignition, in a plant used in a process in subsection (1), unless the plant is constructed to withstand the pressure likely to be produced by an explosion, all practicable steps shall be taken to restrict the spread and effects of the explosion by the provision of chokes, baffles and vents, or other equally effective appliances, to the plant.

(3) Any plant, tank or vessel which contains or has contained any explosive or inflammable substance shall not be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps are taken—

- (a) to remove the substance and any fumes arising from it; and
- (b) to render them non-explosive or non-inflammable.

(4) Where any plant, tank or vessel is subjected to an operation in subsection (3), no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Commissioner may, by certificate in writing, grant exemption from subsections (3) and (4), subject to any conditions, in any case where he or she is satisfied that compliance with the requirement is unnecessary or impracticable.

84. Electrical apparatus, etc to be fit for work meant

All electrical apparatus, fittings and conductors shall be sufficient in size and power for the work they are meant for and shall be constructed, installed, protected, worked and maintained to prevent danger, as far as is reasonably practicable.

85. Toxic materials to be used as last resort

(1) Toxic materials or substances shall only be used where the use of a non-toxic material or substance is not reasonably practicable.

(2) Without prejudice to subsection (1), where toxic materials or substances are present or used, the number of employed persons exposed to risk shall be kept to a minimum and where there is a recognised antidote, supplies of the antidote shall be kept readily available.

(3) In any premises where there are operations to which this Act applies, nothing shall be done to or in connection with toxic materials except under an efficient exhaust draught system.

(4) An exhaust draught system shall be constructed, placed and maintained, to prevent the escape into the air of toxic materials of a character and to an extent liable to be a danger to the health of employed persons.

(5) Where there is a risk that a toxic material or substance may be ingested, an employed person shall not eat, drink or smoke in any workroom or other place where the material or substance is handled.

(6) Without prejudice to any other requirement for washing facilities, where there is a risk to health from contamination of the surface of the body, washing facilities shall be provided and maintained and conveniently situated near the place where the toxic material or substance is used.

(7) In case where toxic materials or substances are manufactured, handled, used or stored, the Commissioner may serve upon an occupier or employer, a notice requiring him or her to—

- (a) provide additional bathing facilities including showers, where practicable;
- (b) arrange for periodical medical examination; and
- (c) provide additional protective clothing.

86. Drenching facilities for emergency cases

Where dangerous or corrosive liquids are used, there shall be provided and maintained, for use in case of an emergency—

- (a) adequate and readily accessible means of drenching with water, for any employee who is splashed with these liquids; and
- (b) sufficient and suitable means of flushing or irrigating the eyes, conveniently situated and clearly indicated by a distinctive sign which is visible at all times.

87. Work in confined places

(1) Where work has to be done inside a confined space—

- (a) the confined space shall be provided with adequate means of exit; and
- (b) a person shall not enter the confined space for any purpose, unless—
 - (i) all practicable steps are taken to remove any fumes and, unless it is ascertained by a suitable test that the space is free from dangerous fumes and the person wears a belt to which there is securely attached a rope of which the free end is held by a person outside; or
 - (iii) the person entering wears a suitable breathing apparatus.

(2) There shall be provided and maintained in every confined work place a sufficient number of workers, trained in the practice and use of breathing and reviving apparatus, belts and ropes and in the methods of restoring respiration, and who shall be readily accessible.

(3) Without prejudice to subsection (1), an employee shall not enter or remain in any chamber, tank, vat, pit, pipe, flue or similar confined space for any purposes unless he or she is—

- (a) assured of a supply of air, adequate for respiration and to render harmless any fumes; or
- (b) wearing a suitable breathing apparatus.

(4) A confined space shall, unless there is other adequate means of access, be provided with a manhole, which may be rectangular, oval or circular in shape and which shall not be less than forty five centimetres long and forty centimetres wide or, if circular, not less than forty five centimetres in diameter or, in the case of tank wagons and other mobile plant, not less than forty centimetres long and thirty five centimetres wide or, if circular, not less than forty centimetres in diameter.

88. Protection of workers from exposure to asphyxiants or irritants

(1) Where ammonia, chlorine, carbon dioxide or other asphyxiant or irritant gas or vapour is **present or liable** to be present in a workplace, all practicable **measures shall be taken** to ensure that the gas or vapour does not **present a danger to the health** of an employee by locating the plant **in another place or by ventilation** or by any other means.

(2) Breathing apparatus or other **equipment of a type** approved by the Commissioner shall be provided and maintained and kept readily available to be used to effect a rescue or to make premises or operations safe.

89. Lifting of heavy loads

An employee shall not be required to lift, carry or move a load which is heavy and likely to cause him or her injury.

90. Workers not to be exposed to ionising radiation, etc

(1) Effective measures shall be taken, as far as is practicable, to restrict the extent to which workers may be exposed to ionising radiation in the course of their employment.

(2) An employee shall not be exposed to ionizing radiation, lasers, ultra-violet, infrared light and other electromagnetic radiations, for more than is reasonably necessary, for the purposes of his or her work, and in any case, everything practicable shall be done to minimise the exposure.

(3) Subsection (2) shall apply to cases where an employed person is subject to vibrations, including ultrasonic vibrations.

91. Provision of personal protective gear

(1) Where any process carried out at a workplace is likely to cause bodily injury which cannot be prevented by other means, every worker involved in that process, who is liable to bodily injury, shall be provided with suitable and appropriate personal protective equipment and clothing to protect him or her from risk or injury.

(2) An employer shall supply and maintain personal protective equipment, free of charge to the employees, and provide instructions for their use.

92. Protection of eyes in certain processes

(1) In the case of any of the processes specified in Schedule 8, suitable goggles or effective screens shall be provided, to protect the eyes of the persons employed in the process.

(2) In any workplace where, electric welding is carried on in a manner that involves risk of persons employed, other than the persons employed in the welding process, being exposed to the electric-arc flash, effective provision shall be made for screening or to prevent the exposure.

93. Medical examination or supervision in certain processes

The Minister may require a medical supervision or a medical examination of a person, or any class of persons employed, where in any workplace—

- (a) a case of illness, of which there is reason to believe that it may be due to the nature of a process or other conditions of work, occurs; or
- (b) there may be risk of injury to the health of the workers in the workplace as a result of any process or from any substance or material used or handled.

94. Prohibition order

(1) Where an inspector believes that the use of a workplace or any part of it or of any machinery, plant, appliance or fitting is likely to threaten the health and safety of any person, the inspector may serve on the employer or worker an order, in writing, prohibiting the use of the machinery, plant, appliance or fitting, until the danger is removed to the satisfaction of the inspector.

(2) Any person aggrieved by an order of an inspector made under subsection (1) may, by complaint to a magistrate's court, apply for the order to be set aside or varied, and at the hearing, the inspector is entitled to be heard and the order shall continue to have effect unless and until it is set aside or varied by the court.

PART XIII—CHEMICAL SAFETY AND SPECIAL PROVISIONS

95. General precautions in handling chemicals

(1) An employer shall take general preventive measures including administrative and technical measures to prevent or reduce the contamination of a work environment to the lowest possible level, or where appropriate, at least to the levels specified by the exposure limits prescribed by the Commissioner, which the Commissioner may, from time to time, issue by notice in the *Gazette*.

(2) Whenever possible, hazardous substances shall be replaced by harmless or less harmful substances.

(3) Operations likely to result in contamination of the work environment by hazardous substances shall be isolated from the remainder of the premises to reduce the number of people exposed.

(4) Processes which involve a significant risk of exposure to very hazardous substances shall, as far as is reasonably practicable, be performed within an enclosed system, to prevent any contact between the hazardous substance and any person.

(5) Direct contact with hazardous substances shall, as far as is reasonably practicable, be avoided by the use of automatic processes or by remote control systems.

(6) Only duly authorised and adequately trained workers shall participate in dangerous operations and their training shall be upgraded at suitable intervals.

(7) When circumstances make it necessary for a worker to enter an atmosphere contaminated by a harmful concentration of a hazardous substance, the worker shall be made fully aware of the hazards and shall be provided with and wear appropriate protective equipment.

96. Provision of chemical data sheets

(1) For hazardous chemicals, chemical safety data sheets containing detailed essential information, regarding the identity, supplier and classification of the chemical, and the hazards, safety precautions and emergency procedures required for the chemicals shall be provided to an employer, by a manufacturer or importer of the chemical.

(2) A copy of the chemical safety data sheet for each product shall be forwarded by the employer to the Commissioner.

97. Labelling of hazardous chemicals

(1) An employer shall ensure that the packages of a hazardous chemical delivered to the workplace, are labelled and that the appropriate chemical safety data sheet for the chemical is delivered to the workplace.

(2) A list or register of the chemical safety data sheets shall be kept at the workplace.

(3) A copy of chemical safety data sheets and of the list of the safety data sheets shall be given to the workers concerned and shall be availed to their representatives for consultation, at any time.

98. Duty of suppliers, manufacturers, etc

(1) Suppliers, manufacturers and importers of equipment shall ensure that machines, process plants, instruments and vehicles are designed and supplied to users in a suitable condition and with the relevant information and that their operation and use contribute as little as possible, to the contamination of a work environment, and that they do not present, as far as is reasonably practicable, any health hazard to workers during production operations, maintenance work and other activities.

(2) Suppliers, manufacturers, importers or distributors of hazardous substances shall ensure that—

- (a) all chemicals are classified based on their characteristics including toxic, chemical or physical, corrosive and irritant properties; and allergenic and sensitising, carcinogenic, teratogenic and mutagenic effects as well as their effects on the reproductive system;
- (b) the containers of all hazardous substances are marked to indicate their identity, to enable persons handling or using them to recognise and distinguish between them when receiving them and when using them, so that they are used safely;
- (c) the containers of all hazardous substances are labelled in a uniform manner with legible, durable labels which are easily understood by workers and other persons.

(3) For the purpose of this section, labelling in accordance with the United Nations labelling system shall be adequate.

PART XIV—OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

99. Misuse of appliances provided

A person commits an offence who—

- (a) willfully interferes with, or misuses any means, appliance, convenience or other thing provided under this Act, for securing the health, safety or welfare of persons employed in a workplace;
- (b) refuses to use the means or appliance provided for securing the health or safety of workers.

100. Worker not to endanger premises or working environment

A worker who wilfully or recklessly does anything which he or she knows or ought to have known to be likely to endanger the safety of the premises of the workplace, or operations or the safety or health of himself or herself or the other employed persons in the premises or who are involved in the operation, commits an offence.

101. Forgery of certificates, false entries and false declarations

A person who does any of the following acts commits an offence—

- (a) forging or counterfeiting any certificate required by, under, or for the purpose of this Act;
- (b) signing any certificate authorised under this Act, knowing it to be false in any material particular;
- (c) knowingly uttering or making use of, as applying to any person, any certificate when it does not apply;
- (d) knowingly uttering or making use of any forged, counterfeited or false certificate;
- (e) impersonating any person named in any certificate issued under this Act;
- (f) falsely pretending to be an inspector;
- (g) wilfully conniving in any forgery or counterfeiting of any certificate;
- (h) signing, uttering or making use by, impersonation or pretence, in any process prescribed under this Act;

- (i) wilfully making a false entry in any register, notice, certificate, or document required by, under or for the purpose of this Act;
- (j) wilfully making or signing a false declaration required by, under or for the purposes of this Act; or
- (k) knowingly making use of any such false entry of a declaration made under this Act.

102. Penalties in cases of fatal and non-fatal injuries

(1) Where a person dies, or suffers bodily injury, as a result of a contravention of this Act by an occupier or an owner of a workplace, the occupier or owner commits an offence, and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding fifty months, or both.

(2) The whole or any part of a fine imposed under subsection (1), may be applied for the benefit of the injured person or his or her family or for any other purpose as the court may determine.

(3) Where an injury, caused by a contravention of this Act, by an occupier or an owner of a workplace, results into permanent total incapacity, the occupier or owner of the workplace commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding fifty months, or both.

(4) The whole or any part of a fine imposed under subsection (3), may be applied for the benefit of the injured person or his or her family or for any other purpose as the court may determine.

(5) Where an injury, caused by a contravention of this Act, by an occupier or an owner of a workplace, results into permanent partial incapacity or temporary incapacity, the occupier or owner of the workplace commits an offence and is liable, on conviction to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding fifty months, or both.

(6) The whole or any part of a fine imposed under subsection (5), may be applied for the benefit of the injured person or his or her family or for any other purpose as the court may determine.

103. General offences

(1) In the event of any contravention of a provision of this Act in relation to a workplace, an occupier, or where the contravention is one in respect of which an owner is under this Act made responsible, the owner or occupier of the workplace as the case may be, commits the offence.

(2) Where the occupier of a workplace avails himself or herself of any special exception under this Act, and fails to comply with any of the conditions attached to the exception, he or she shall be deemed to have contravened this Act.

(3) Where a person is employed in a workplace contrary to this Act, there shall be deemed to be a separate contravention and a separate offence in respect of each person so employed.

(4) Where an offence under this Act is committed by a company, cooperative society or other body of persons and it is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of a chairperson, director, manager, secretary or other officer of the company, cooperative society or other body of persons, that person as well as the company, cooperative society or other body of persons shall be deemed to have committed the offence.

104. General penalty

(1) Subject to this Act, a person who commits an offence for which no express penalty is provided by this Act, is liable, on conviction to a fine not exceeding twenty four currency points or, to imprisonment for a term not exceeding twelve months, or both.

(2) Where a contravention of this Act is continued after conviction, the person convicted commits another offence and is liable, on further conviction, to a fine not exceeding one currency point for each day or part of a day on which the contravention is continued.

105. Application for an alternative remedy

(1) Where an occupier or owner of a workplace is convicted of an offence under this Act, the court may, in addition to or instead of imposing any penalty, order him or her, within the time specified in the order, to take such steps as may be specified, to remedy the matters in respect of which the contravention occurred, and may, on application extend the time so specified.

(2) Where an order is made under subsection (1), an occupier or owner is not liable under this Act, in respect of the continuation of the contravention during the time allowed by the court, but where after the expiration of that time originally specified or extended by subsequent order, the order is not complied with, the occupier or owner, as the case may be, commits an offence and is liable, on conviction, to fine not exceeding one currency point for each day or part of a day on which the non-compliance continues.

106. Trade secrets

(1) An authorised person or any person employed in the administration of this Act, shall treat as secret and confidential, any manufacturing or commercial secret which may come to his or her knowledge in the course of his or her duty.

(2) A person who discloses to any person any matter, in contravention of subsection (1), while still in an official duty under this Act or while employed in the administration of this Act or after the official duty or employment, unless the disclosure was made in the performance of his or her duty, commits an offence and is liable, on conviction to a fine not exceeding one hundred currency points or to imprisonment not exceeding twenty six months or both.

107. Third party liability

Where an act or default for which an occupier or owner of a workplace is liable under this Act, is the act or default of an agent, servant, worker or other person, the agent, servant, worker or other person commits an offence and is liable, on conviction, to the same penalty as if he or she were the occupier or owner, as the case may be.

108. Owner of machine, etc to be deemed occupier

Where any person other than an occupier of a workplace or a person employed, uses in a workplace, for the purposes of construction, repair, installation or other work, any machine, appliance, equipment or plant which is owned or hired by him or her, that person shall, in respect of any contravention of this Act in relation to the machine, appliance, equipment or plant, be deemed to be the occupier.

109. Proceedings against third parties

Where a person is substituted for the occupier or owner of a workplace with respect to this Act, any order, summons, notice or proceedings, which, is under this Act required or authorised to be served on the occupier or owner, shall be served on that person.

110. Prosecution of offences

(1) All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered in a magistrate's court presided over by a Chief Magistrate or a Magistrate Grade I.

(2) In any proceedings under this Act, it shall be sufficient in a charge sheet to allege that the workplace is a workplace within the meaning of this Act and to state the name of the ostensible occupier of the workplace or, where the occupier is a firm, the title of the firm, and the burden of proving that the premises are not a workplace or that the occupier specified in a charge sheet is not the occupier of the workplace, shall lie upon the person alleging that fact.

(3) Where an offence is committed under this Act, by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by this Act, the offence shall be deemed to continue until the examination is made, the report entered or the other thing done, as the case may be.

111. Examination where authorised person is not available

(1) Where any periodical examination required by this Act to be carried out by an authorised person is not done within the period specified by reason of an occupier or an owner not having been able to arrange for an authorised person to carry out that examination, the occupier or owner shall immediately notify the Commissioner by the quickest means available, of the circumstances and shall give particulars of the machinery or plant concerned and of the date when the last examination was carried out as required by this Act.

(2) Where an occupier or owner is not able to arrange for an authorised person to carry out any examination required to be done under this Act in respect of a new steam boiler, steam receiver or air receiver, he or she shall notify the Commissioner of the circumstances and send with the notification, a certificate furnished by the manufacturer of the steam boiler, steam receiver or air receiver, as the case may be.

(3) On receipt of the notification in subsection (2) and the manufacture's certificate, if any, and after any further inquiry as he or she may direct, the Commissioner may, by notice in writing in the prescribed form, permit the use of the steam boiler, steam receiver or air receiver, subject to such conditions as he or she may specify in the notice.

(4) A notice issued in subsection (3) shall be entered into or attached to the General Register.

112. General Register

(1) There shall be kept available for inspection in every workplace, in the prescribed form, a General Register.

(2) The General Register shall have entered in or attached to it—

(a) the certificate of registration of the workplace;

(b) every other certificate issued in respect of the workplace by the Commissioner under this Act;

- (c) the prescribed particulars as to every accident and case of occupational disease which occurs in the workplace for which notice is required to be sent under this Act and any regulations made under this Act.

(3) An occupier of a workplace shall send to an inspector extracts from the General Register as the inspector may require for the purpose of the execution of his or her duties under this Act.

(4) Notwithstanding this section, in the case of a temporary workplace, where it appears to the Minister that it is inappropriate or unnecessary to require compliance with any of the provisions of subsection (1), the Minister may, by statutory instrument, direct that any of the provisions are not apply to a temporary workplace of a specified class or description.

113. Entries in General Register or other records

(1) Where any entry is required by this Act to be made in the General Register or in any other register or record, the entry made by an occupier of the workplace or on his or her behalf, shall be admissible against the occupier, as evidence of the facts stated in it, and the fact that any entry required with respect to the observance of this Act is not made, shall be evidence that the Act has not been observed.

(2) Any article or any specimen or sample of any article submitted for examination or analysis to a prescribed institution and any document purporting to be a report of the examination or analysis made on behalf of the institution, may be used as evidence of any injury in any trial or other proceedings under this Act and the court may presume that the signature to the document is genuine and that the person signing the document acted on behalf of the prescribed institution for which he or she professes to act at the time when he or she signed it.

(3) Any certificate, document, stamp or mark which purports to describe the accuracy, verification or true calibration on any instrument and which purports to be a certificate, document, stamp or mark issued by or on behalf of the National Bureau of Standards or

any other internationally recognised institution or the manufacturer of the instrument, shall be admissible as evidence of the facts stated in it, and the court may presume that the certificate, document, stamp or mark is genuine.

114. Preservation of registers and record

The General Register and any other register or record kept under this Act, shall be preserved and kept available for inspection by an inspector for at least five years or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.

115. Serving and sending of documents

(1) Any document, including any summons or order, required or authorised to be served under this Act may be served—

- (a) on any person, by delivering the document to him or her, or by leaving the document at, or sending it by registered post to his or her residence;
- (b) on any firm, by delivering it to any partner of the firm, or by leaving it at, or sending it by registered post to, an office of the firm; and
- (c) on the occupier or owner of a workplace including any owner or occupier which is a company or a cooperative society, by sending it by registered post or by delivering it, or a copy of it to the manager, foreman, or other responsible person, at the workplace.

(2) Any document mentioned in subsection (1) may be addressed, for the purpose of service on an occupier of a workplace to, “The Occupier”, followed by a description of the workplace, sufficient to identify it without further name or description.

116. Power to modify agreements

Where, by reason of an agreement between an owner and an occupier of premises, the whole or any part of which is let as a workplace, the owner or the occupier is prevented from carrying out any structural or

other alterations in the premises, which are necessary to enable him or her to comply with this Act or to conform with any standard or requirement imposed by or under this Act—

- (a) the occupier may apply to court by summons for the terms of the agreement to be set aside or modified; and
- (b) court may, after hearing the parties and their witnesses make an order setting aside or modifying the terms of the agreement, as the court may consider just and equitable under the circumstances.

117. Power to apportion expenses

Where in any premises, the whole or any part of which is let as a workplace, any structural or other alterations are required in order to comply with this Act, and an owner or an occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by only one of the parties of both of the parties—

- (a) the occupier may apply to court by summons, for apportionment of the expenses of the alterations between the parties; and
- (b) the court, after hearing the parties and their witness may—
 - (i) make an order concerning the apportionment of expenses, as it considers just and equitable in the circumstances of the case, considering the terms of any contract between the parties; or
 - (ii) at the request of the owner or occupier, determine the lease.

118. Relation of Act to other laws

Except where otherwise provided, this Act shall be in addition to and not in substitution for or diminution of any other law.

119. Regulations

(1) The Minister may, with the approval of Parliament, make regulations for the implementation of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations made under this Act, may prescribe a penalty for contravention of the regulations, of a fine not exceeding fifty currency points or imprisonment not exceeding fourteen months, or both.

120. Minister's power to amend Schedules

(1) The Minister may, with the approval of Cabinet, by statutory instrument, amend Schedule 1.

(2) The Minister, may, with the approval of the Occupational Safety and Health Board, amend Schedules 2, 3, 4, 5, 6, 7, and 8.

121. Repeal of Cap. 220 and savings

(1) The Factories Act, Cap 220 is repealed.

(2) Without prejudice to the general effect of the Interpretation Act—

(a) any statutory instrument made under the repealed Act and in force immediately before the commencement of this Act, shall, with the necessary modifications, continue in existence as if made under this Act until revoked under this Act;

(b) any proceedings pending under the repealed Act before the commencement of this Act may be continued and completed under this Act.

SCHEDULES

SCHEDULE 1

Sections 2, 120 (1)

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SCHEDULE 2

*Sections 14 (2), 120 (2)*GUIDELINES FOR WRITING AND CHECKING
STATEMENT OF POLICY

1. Structure of written statement:

Every written statement of policy shall cover both the essential areas referred to in section 13 of this Act.

General policy—

.....
.....
.....

Organisation and arrangements for carrying out general policy—

.....
.....
.....

2. Details of levels of responsibility—

.....
.....
.....

3. Safety Representatives and Joint Safety Committees -

.....
.....
.....

4. Employer's policy on training and supervision-

.....
.....
.....

5. Details of the hazards -

.....
.....
.....

6. Revision of the Policy -

.....
.....
.....

Signed.....
Director/General Manager/Managing Director

SCHEDULE 3

Sections 40(2), 120 (2)

PARTICULARS TO BE SUBMITTED WHEN APPLYING FOR THE
REGISTRATION OF A WORKPLACE OR A CHANGE IN THE
REGISTERED OCCUPIER

1. The name of the occupier or intending occupier of a workplace (in case of a firm which is not a limited company, the full name should be given together with the registered trading name, if any).....
.....
2. Postal address and telephone and fax number (if any) of the occupier or intending occupier: -
.....
.....
.....
3. The precise location of the workplace (if in a city etc) the street and plot number should be given. If outside a township, sufficient information to enable the workplace to be found readily should be given.....
.....
.....
4. Nature of work carried on or proposed to be carried on in the workplace.....
.....
.....
5. Whether mechanical power is used or intended to be used, if so, its nature (e.g. steam, electric motors, oil engine etc)
.....
.....
.....
6. Whether steam boilers are used or intended to be used, if so the following particulars in respect of each boiler -

- (a) type, description and distinctive number
.....
.....
- (b) country and year of manufacture (where possible)
.....
.....
- (c) date of the last thorough examination and name of authorised person by whom the examination was made
.....
.....
- (d) the maximum permissible working pressure
.....
.....

7. Whether you use or intend to use any of the following:—

- (i) Lifts
- (ii) Cranes, winches, fork lifts etc.
- (iii) Block and tackle, chain blocks
- (iv) Air receivers
- (v) Gas plant.

8. Whether you use or intend to use hazardous chemicals: -

- (a) (i) Toxicity.....
- (ii) Chemical properties.....
- (iii) Physical properties
- (iv) Irritant properties.....
- (v) Corrosive properties
- (vi) Allergic and sensitising effects
- (vii) Carcinogenic effects
- (viii) Tetragenic effects
- (ix) Mutagenic effects

- (b) Their effects on the reproductive system.
.....
.....
- (c) Whether hazardous substances are distinctively labeled and an appropriate chemical safety data sheets available.
.....
.....
9. (a) Whether you use or intend to use an industrial waste treatment plant—
.....
.....
- (b) Method of handling effluents—
.....
.....
10. Whether you have made provisions for-
- (a) Sanitary installations
- (b) Washing facilities
- (c) Facilities for changing and storing clothes
- (d) Supply of drinking water
- (e) First aid treatment
- (f) Emergency plans
11. The date on which you expect to begin to operate the workplace or to change the occupier
.....
.....
.....
12. (a) Total number of persons of each sex employed, or intended to be employed in the workplace.
.....males.....females
- (b) Where persons are employed in shifts, the maximum number employed, at any one time.
.....males.....females

Date

Signature of occupier or intending occupier

SCHEDULE 4

Sections 41(1), 120 (2)

CERTIFICATE OF REGISTRATION OF WORKPLACE

No. of certificate.....

Date of issue

I hereby certify that the premises named below have been duly registered under section 41 (1) of the Occupational Safety and Health Act, 2005.

Name of occupier.....

.....

Postal address, telephone and fax number (if any).....

Location of workplace

.....

Nature of work

.....

.....
Commissioner, Occupational Safety and Health

*Sections 69, 120 (2)*PARTICULARS TO BE SUBMITTED BY OCCUPIERS OF
PREMISES (OTHER THAN WORKPLACES) IN WHICH A
HOIST OR LIFT IS USED.

The name, postal address, telephone and fax number, if any, of the occupier.

.....
.....

1. A precise description of the location of the premises.....
.....
.....
2. The type of premises (offices, shops, etc).
.....
3. Description of the hoist or lift.
 - (a) Whether goods only; passengers only; or goods and passengers.....
 - (b) The maker.
 - (c) The maker's number.
 - (d) The date of installation.
 - (e) How operated (mechanical power, hydraulic power or manually)
.....
 - (f) The number of floors served.....
 - (g) The maximum working load which it can safely carry.
.....

SCHEDULE 6

Sections 75, 120 (2)

REGISTER OF LIFTING GEAR, LIFTING APPLIANCES
AND LIFTING MACHINES

Separate page to be used for each lifting gear, lifting appliance or lifting machine:

TO BE ENTERED ON THE COVER OF THE GENERAL REGISTER

The number of the certificate(s) of the workplace

Signature of the occupier or his representative

TO BE ENTERED ON EACH PAGE

1. Description of gear, appliance or machine.....
2. Distinctive number of other means of identification.....
.....
3. Date when first taken into use in the workplace.....
4. Date and number of the certificate of test and examination and the name and address of person who issued the certificate.....
.....
.....
5. Date of each examination, the name of the authorised person who carried it out, particulars of any defect found and the steps taken to remedy the defect
.....
.....
6. Date of each annealing or other heat treatment and by whom it was carried out
.....
.....

*Sections 69, 120 (2)*PARTICULARS TO BE SUBMITTED BY OCCUPIERS OF
PREMISES (OTHER THAN WORKPLACES) IN WHICH A
HOIST OR LIFT IS USED.The name, postal address, telephone and fax number, if any, of the occupier.
.....
.....

1. A precise description of the location of the premises.....
.....
.....
2. The type of premises (offices, shops, etc).
.....
3. Description of the hoist or lift.
 - (a) Whether goods only; passengers only; or goods and passengers.....
 - (b) The maker.
 - (c) The maker's number.
 - (d) The date of installation.
 - (e) How operated (mechanical power, hydraulic power or manually)
.....
 - (f) The number of floors served.....
 - (g) The maximum working load which it can safely carry.
.....

PROCEDURE FOR MAKING SPECIAL RULES

1. When it is proposed to make any special rules, the Minister shall publish in the *Gazette* notice of the proposal to make rules and of the time (which shall not be less than sixty days) within which any objection made with respect to the draft rules by or on behalf of the person affected is to be sent to the Permanent Secretary of the Ministry responsible for occupational safety and health issues. The Minister shall also, at the same time cause to be published the draft rules in a special supplement to the *Gazette*.
2. Every objection is to be in writing and shall state—
 - (a) the specific grounds for objection; and
 - (b) in general terms the omissions, additions, or modifications asked for.
3. The Permanent Secretary shall consider any objection made by or on behalf of any person, which is sent to the Permanent Secretary within the required time, and shall cause discussions, to be held with the persons making the objections, as he or she thinks fit, with a view to seeking clarifications, modifications or withdraw of the objection. When the discussions are concluded the Permanent Secretary shall submit to the Minister, a list of the objections received by him or her and a report of the results of the discussions which he or she shall have caused to be held with the persons making the objections.
4. The Minister shall consider the matter and may amend the draft rules as he or she thinks fit. The Minister may either make the special rules in accordance with the original or the amended draft or cause the amended draft to be treated as an original draft for the purpose of this Schedule.
5. Where the draft rules are amended by the Minister and the Minister proposes to deal with the amended rules as an original draft and to subject the rules to the procedure in this Schedule, it shall be necessary for the Minister to cause to be published, only the draft rules that are amended.
6. The period during which an objection may be made to amended draft rules may be reduced to not less than thirty days.

SCHEDULE 8

*Sections 92, 120 (2)*PROCESSES REQUIRING PROVISION OF SUITABLE GOGGLES OR
EFFECTIVE SCREEN

1. Dry grinding of metals or articles or metal, by a revolving wheel or disc driven by mechanical power at which a person is regularly employed.
2. Turning (external or internal) of non-ferrous metals or of cast iron, or of articles of those metals or iron, where the work is done dry, other than precision turning where the use of goggles or a screen would seriously interfere with the work, or turning by means of hand tools.
3. Welding or cutting of metals by means of an electrical, oxy-acetylene or similar process.
4. The following processes when carried on by means of hand tools or other portable tools—
 - (a) fettling of metal castings involving the removal of metal;
 - (b) cutting out or cutting off (not including drilling or punching back) of cold rivets or bolts from steam boilers or other plant or from shifts;
 - (c) chipping or scaling of boilers or ship's plates;
 - (d) breaking or dressing of stone, concrete or slag.

Cross References

Factories Act, Cap. 220

Interpretation Act, Cap. 3