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CAP. 236A

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Occupational Safety and Health Act

Cap. 236A

Legislation as at 31 December 2022

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Occupational Safety and Health Act (Cap. 236A)
Contents

Part I – PRELIMINARY 1
1. Short title 1
2. Interpretation 1
3. Application of Act 3
4. Approval of codes of practice by Director 4
5. Use of approved codes of practice in criminal proceedings 4
Part II – GENERAL DUTIES 4
6. Duties of occupiers 4
7. Duty to prepare a safety and health policy statement 5
8. Discrimination against employee, etc. 5
9. Safety and health committees 6
10. Duty not to charge employees for things done or provided 6
11. Safety and health audits 6
12. Duties of self-employed persons 7
13. Duties of employee 7
14. Duty to report any dangerous situation 7
15. Duty not to interfere with or misuse things provided pursuant to certain provisions 8
16. Prohibition against creation of hazards 8
17. General duties of occupier and self-employed to persons other than their employees 8
18. Duties of an occupier of a place of work to persons other than his employees 8
19. General duty of persons in control of certain premises in relation to harmful emissions into atmosphere 9
20. Duties of designers, manufacturers, importers, etc., with regard to articles and substances for use at work 9
21. Notice of accidents and dangerous occurrences 10
22. Notification of occupational diseases 11
Part III – ADMINISTRATION 11
23. The Director 11
24. Research and related activities 12
25. Collection of occupation safety and health statistics 13
26. Appointment of occupational safety and health officers 13
27. Establishment of the National Council for Occupational Safety and Health 13
28. Membership of the Council 14
29. Annual report 15
30. Technical advisory committee 15

31. Functions of the technical advisory committee 15
Part IV – ENFORCEMENT 16
32. Powers of an occupational safety and health officer 16
33. Power of occupational safety and health officer to conduct proceedings 18
34. Power to take samples 18
35. Power to deal with cause of imminent danger 18
36. Improvement notices 19
37. Prohibition notices 19
38. Appeal against improvement or prohibition notice 20
39. Provisions on prohibition notices and improvement notices 20
40. Occupational safety and health officer not to disclose information or source of complaints 21
41. Indemnity of occupational safety and health officer 21
42. Safety and health advisor 21
Part V – REGISTRATION OF WORKPLACES 22
43. Register of workplaces 22
44. Registration of workplaces 22
45. Exceptions to registration 23
46. Appeals 23
Part VI – HEALTH GENERAL PROVISIONS 24
47. Cleanliness 24
48. Overcrowding 24
49. Ventilation 25
50. Lighting 25
51. Drainage of floors 25
52. Sanitary conveniences 25
53. Enforcement of section 52 by local authorities 25
54. Duty of occupational safety and health officer as to sanitary defects remediable by local authority 25
Part VII – MACHINERY SAFETY 26
55. Safe use of plant, machinery and equipment 26
56. Prime movers 26
57. Transmission machinery 26
58. Other machinery 26
59. Hand-held and portable power tools and equipments 27
60. Construction and maintenance of fencing 27
61. Construction and disposal of new machinery 27

62. Self-acting machines 27
63. Hoists and lifts 27
64. Chains, ropes and lifting tackle 29
65. Cranes and other lifting machines 29
66. Register of chains, ropes and lifting tackle and lifting machines 30
67. Steam boilers 30
68. Steam receivers and steam containers 32
69. Air receivers 34
70. Cylinders for compressed, liquefied and dissolved gases 35
71. Refrigeration plants 37
72. Examination and testing of plants 37
Part VIII – SAFETY GENERAL PROVISIONS 37
73. Vessels containing dangerous liquids 37
74. Storage 37
75. Ladders 38
76. Ergonomics at the workplace 38
77. Safe means of access and safe place of employment 38
78. Fire prevention 39
79. Precautions in places where dangerous fumes likely 40
80. Precautions with respect to explosive or inflammable dust or gas 40
81. Safety provisions in case of fire 41
82. Evacuation procedures 41
Part IX – CHEMICAL SAFETY 42
83. The handling, transportation and disposal of chemicals and other hazardous substances 42
84. Material safety data sheets 42
85. Labelling and marking 42
86. Classification of hazardous chemicals and substances 43
87. Corrosive substances 43
88. Exposure limits to hazardous substances 43
89. Control of air pollution, noise and vibration 44
90. Redeployment on medical advice 44
Part X – WELFARE GENERAL PROVISIONS 44
91. Supply of drinking water 44
92. Washing facilities 44
93. Accommodation for clothing 45

94. Facilities for sitting 45
95. First-aid 45
Part XI – HEALTH, SAFETY AND WELFARE SPECIAL PROVISIONS 45
96. Permit to work 45
97. Work processes which may harm persons below eighteen years 45
98. Supervision of apprentices and indentured learners 45
99. Training and supervision of inexperienced workers 45
100. Meals in certain dangerous trades 46
101. Protective clothing and appliances 46
102. Protection of eyes in certain processes 46
103. Medical surveillance 46
Part XII – SPECIAL APPLICATIONS 47
104. Premises where part of building is separate workplace 47
105. Premises in which steam boilers are used 47
106. Premises in which hoists or lifts are used 47
107. Platforms erected over water 48
Part XIII – OFFENCES, PENALTIES AND LEGAL PROCEEDINGS 48
108. Offences 48
109. General penalty 48
110. Court may order cause of contravention to be remedied 49
111. Penalty in case of death or injury 49
112. Forgery, false declaration, etc. 49
113. Penalty on persons committing offence for which occupier is liable 50
114. Exemption of occupier or owner on conviction of actual offender 50
115. Proceedings against persons other than occupiers or owners 50
116. Prosecution of offences 50
117. Special provisions as to evidence 51
118. Service of documents 51
119. Power to modify agreements 51
120. Power to apportion expenses 52
Part XIV – MISCELLANEOUS PROVISIONS 52
121. Posting of abstract of Act, rules and notices 52
122. General register 52
123. Preservation of registers and records 53
124. Return of persons employed 53

125. Approval of plans of workplace premises 53
126. Occupational Safety and Health Fund 53
127. Safety and health regulations 54
128. Power to direct formal investigation of accidents and cases of disease 56
129. Repeal and savings 57
FIRST SCHEDULE [s. 21(8)] 57
SECOND SCHEDULE [s. 22(4)] 58
THIRD SCHEDULE [s. 28(6)] 62
FOURTH SCHEDULE [ss. 44] 64
FIFTH SCHEDULE [s. 44] 65
SIXTH SCHEDULE [s. 66] 65
SEVENTH SCHEDULE [s. 67(10)] 66
EIGHTH SCHEDULE [s. 102] 66
NINTH SCHEDULE [s. 105] 67

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An Act of Parliament to provide for the safety, health and welfare of workers and all persons lawfully present at workplaces, to provide for the establishment of the National Council for Occupational Safety and Health and for connected purposes

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Occupational Safety and Health Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"air pollution" means air contaminated by substances whatever their physical state, which are harmful to health or otherwise dangerous;

"article for use at work" means—

(a) any plant designed for use or operation (whether exclusively or not) by persons at a workplace; and

(b) any article designed for use as a component in such plant;

"biological monitoring" means a planned programme of periodic collection and analysis of body fluid, tissues, excreta or exhaled air in order to detect and quantify the exposure to or absorption of any substance or organism by persons;

"bodily injury" includes injury to health;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for labour matters;

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

"code of practice" includes a standard, a specification and any other documentary form of practical guidance;

"competent person" in relation to any duty or function, means a person who has adequate training, relevant qualifications and experience to enable him to perform that duty or function;

"Council" means the National Council for Occupational Safety and Health established under section 27;

"court" means a magistrate's court;

"Director" means the Director of Occupational Safety and Health Services appointed under section 23;

"driving belt" includes any driving strap or rope;

"employee" means a person who works under a contract of employment and related expressions shall be construed accordingly;

"exposure" means the amount of a workplace agent that has reached an individual worker (external dose) or has been absorbed into the individual worker (absorbed dose);

"fume" includes gas or vapour;

"general register" means the register kept in a workplace as required under section 122;

"highly flammable liquid" means any liquid, liquid solution, emulsion or suspension which gives off a flammable vapour at a temperature of less than 32 degrees centigrade;

"improvement notice" means a notice issued under section 36 of this Act;

"machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

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

"major hazard installation" means an installation—

(a) where more than the prescribed quantity of any substance is or may be kept, whether permanently or temporarily; or

(b) where any substance is produced, processed, used, handled or stored in such a form that it has the potential to cause a major incident;

"major incident" means an occurrence of catastrophic proportions resulting from the use of plant or machinery or from activities at a workplace;

"medical surveillance" means a planned programme of periodic examination, which may include clinical examinations, biological monitoring or medical tests of persons employed by a designated health practitioner or by an occupational medical practitioner;

"noise" means all sound energy, which can result in hearing impairment or be harmful to health or otherwise dangerous;

"occupational hygiene" means the anticipation, recognition, evaluation, monitoring and control of conditions arising in or from the workplace, which may cause illness or adverse health effects to persons;

"occupational safety and health officer" means any officer appointed under section 26 and includes the Director appointed under section 23;

"occupier" means the person or persons in actual occupation of a workplace, whether as the owner or not and includes an employer;

"owner" means the person for the time being receiving the rents or profits of premises whether on his own account or as agent or trustee of another person, or who would receive the rents and profits if the premises were leased;

"plant" includes any equipment, gear, machinery, apparatus or appliance or any part thereof;

"premises" includes any place and, in particular includes—

(a) any vehicle, vessel aircraft or hovercraft;

(b) any installation on land including the foreshore and land intermittently covered by water, any offshore installation or any other installation whether floating, or resting on seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof;

(c) any tent or movable structure;

“prime mover” means every 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;

“prohibition notice” means a notice issued under section 37;

“risk” means the probability of occurrence of an adverse effect from a substance on people or the environment combined with the magnitude of the consequence of that adverse effect;

“safety and health advisor” means any person who holds a minimum qualification of a certificate in occupational safety and health from a recognised institution and has at least five years proven practical experience in that field;

“sanitary conveniences” includes urinals, water-closets, earth-closets, privies, ash pits and any similar convenience;

“self-employed person” means an individual who works for gain or reward other-wise than under a contract of employment, whether or not he employs others;

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

“substance” means any natural or artificial matter or material whether in solid or liquid form or in the form of a gas or vapour;

“supplier” means a person who provides articles or substances by way of sale, lease, hire or hire-purchase, whether as principal or agent;

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

“user” in relation to plant or machinery, means the person who uses plant or machinery for his own benefit or who has the right of control over the use of plant or machinery, but does not include a leaser of, or any person employed in connection with, that plant or machinery;

“vibration” means mechanical energy transmitted to a person’s body from a source of oscillations and is harmful to health or otherwise dangerous;

“workplace” includes, any land, premises, location, vessel or thing, at, in, upon, or near which, a worker is, in the course of employment;

“workroom” means any room or cubicle in which work is done by persons employed.

3. Application of Act

(1) This Act shall apply to all workplaces where any person is at work, whether temporarily or permanently.

(2) The purpose of this Act is to—

(a) secure the safety, health and welfare of persons at work; and

(b) protect persons other than persons at work against risks to safety and health arising out of, or in connection with, the activities of persons at work.

4. Approval of codes of practice by Director

(1) For the purpose of providing practical guidance with respect to any provision of this Act and of safety and health regulations, the Director shall, in consultation with the Council, approve and issue codes of practice which are in his opinion suitable for that purpose.

(2) The Director shall, in consultation with the Council, from time to time, revise the whole or any part of any code of practice prepared by him in pursuance of this section.

(3) The Director may, in consultation with the Council, withdraw a code of practice approved or issued under subsection (1).

(4) Where the Director has approved, issued or withdrawn a code of practice under this section, the Director shall publish a notice in the *Gazette*.

5. Use of approved codes of practice in criminal proceedings

(1) Failure on the part of any person to observe any provision of an approved code of practice shall not render that person liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by an approved code of practice, the provisions of subsection (2) shall have effect with respect to that code in relation to those proceedings.

(2) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.

(3) In any criminal proceedings—

(a) a document purporting to be a notice issued by the Director under section 4 shall be taken to be such a notice unless the contrary is proved; and

(b) a code of practice, which appears to the court to be the subject of such a notice, shall be taken to be the subject of that notice unless the contrary is proved.

Part II – GENERAL DUTIES

6. Duties of occupiers

(1) Every occupier shall ensure the safety, health and welfare at work of all persons working in his workplace.

(2) Without prejudice to the generality of an occupier's duty under subsection (1), the duty of the occupier includes—

(a) the provision and maintenance of plant and systems and procedures of work that are safe and without risks to health;

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

(c) the provision of such information, instruction, training and supervision as is necessary to ensure the safety and health at work of every person employed;

(d) the maintenance of any workplace under the occupier's control, in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks to health;

(e) the provision and maintenance of a working environment for every person employed that is, safe, without risks to health, and adequate as regards facilities and arrangements for the employees welfare at work;

(f) informing all persons employed of—

(i) any risks from new technologies; and

(ii) imminent danger; and

(g) ensuring that every person employed participates in the application and review of safety and health measures.

(3) Every occupier shall carry out appropriate risk assessments in relation to the safety and health of persons employed and, on the basis of these results, adopt preventive and protective measures to ensure that under all conditions of their intended use, all chemicals, machinery, equipment, tools and processes under the control of the occupier are safe and without risk to health and comply with the requirements of safety and health provisions in this Act.

(4) Every occupier shall send a copy of a report of risk assessment carried out under this section to the area occupational safety and health officer.

(5) Every occupier shall take immediate steps to stop any operation or activity where there is an imminent and serious danger to safety and health and to evacuate all persons employed as appropriate.

(6) It is the duty of every occupier to register his workplace unless such workplace is excepted from registration under this Act.

(7) An occupier who fails to comply with a duty imposed on him under this section commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

7. Duty to prepare a safety and health policy statement

(1) Except in such cases as may be prescribed, it is the duty of every occupier to—

(a) prepare and, as often as may be appropriate, revise a written statement of his general policy with respect to the safety and health at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy; and

(b) to bring the statement and any revision of it to the notice of all of his employees.

(2) The Cabinet Secretary may make regulations to provide for the contents of a general statement of safety and health and obligations to a person implementing the policy.

(3) It shall be an offence for a person on whom a duty is imposed under this section to fail to carry out such a duty.

8. Discrimination against employee, etc.

(1) An occupier shall not dismiss an employee, injure the employee or discriminate against or disadvantage an employee in respect of the employee's employment, or alter the employee's position to the detriment of the employee by reason only that the employee—

(a) makes a complaint about a matter which the employee considers is not safe or is a risk to his health;

(b) is a member of a safety and health committee established pursuant to this Act; or

(c) exercises any of his functions as a member of the safety and health committee.

(2) An occupier who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

(3) Notwithstanding any written law to the contrary, where a person is convicted of an offence under this section the court may, in addition to imposing a penalty on the offender make one or both of the following orders—

(a) an order that the offender pays within a specific period to the person against whom the offender has discriminated such damages as the court deems fit to compensate that person; or

(b) an order that the employee be reinstated or re-employed in his former position or, where that position is not available, in a similar position.

9. Safety and health committees

(1) Every occupier shall establish a safety and health committee at the workplace in accordance with regulations prescribed by the Cabinet Secretary if—

(a) there are twenty or more persons employed at the workplace; or

(b) the Director directs the establishment of such a committee at any other workplace.

(2) The Cabinet Secretary may make regulations to provide for the organisation, functions and activities of the safety and health committees, including the election of safety representatives, their rights and duties, and for the training of the members of the safety and health committees and the safety and health representatives.

(3) An occupier shall not penalise an employee who is a member of a work place safety and health committee for doing anything in furtherance of the object of this section.

(4) An occupier who contravenes the provisions of subsection (1) commits an offence.

10. Duty not to charge employees for things done or provided

(1) An employer shall not make any deduction from an employee's remuneration or levy, or permit to be levied on any of his employees any charge in respect of anything done or provided in pursuance of this Act or any regulation made there under.

(2) An employer who contravenes the provisions of subsection (1) commits an offence.

11. Safety and health audits

(1) The occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor, who shall issue a report of such an audit containing the prescribed particulars to the occupier on payment of a prescribed fee and shall send a copy of the report to the Director.

(2) The audit report referred to in subsection (1) shall be preserved and be kept available for inspection by the occupational safety and health officer.

(3) An occupier who fails to comply with a duty imposed on him under this section commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

12. Duties of self-employed persons

(1) Every self-employed person shall—

(a) take all necessary precautions to ensure his own safety and health and that of any other person in his workplace or within the environs of his workplace;

(b) at all times use appropriate safe systems of work, preventive and control measures and where not feasible, use suitable personal protective appliances and clothing required under this Act;

(c) comply with any safety and health rules, regulations, instructions and procedures issued under this Act;

(d) report to the Director—

(i) any situation which he has reason to believe would present imminent danger or hazard and which he cannot correct; and

(ii) any incident or injury that arises in the course of or in connection with his work, as required under this Act.

(2) A self-employed person who contravenes the provisions of this section commits an offence.

13. Duties of employee

(1) Every employee shall, while at the workplace—

(a) ensure his own safety and health and that of other persons who may be affected by his acts or omissions at the workplace;

(b) co-operate with his employer or any other person in the discharge of any duty or requirement imposed on the employer or that other person by this Act or any regulation made hereunder;

(c) at all times wear or use any protective equipment or clothing provided by the employer for the purpose of preventing risks to his safety and health;

(d) comply with the safety and health procedures, requirements and instructions given by a person having authority over him for his own or any other person's safety;

(e) report to the supervisor, any situation which he has reason to believe would present a hazard and which he cannot correct;

(f) report to his supervisor any accident or injury that arises in the course of or in connection with his work; and

(g) with regard to any duty or requirement imposed on his employer or any other person by or under any other relevant statutory provision, co-operate with the employer or other person to enable that duty or requirement to be performed or complied with.

(2) An employee who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

14. Duty to report any dangerous situation

(1) Every employee shall report to the immediate supervisor any situation which the employee has reasonable grounds to believe presents an imminent or serious danger to the safety or health of that employee or of other employees in the same premises, and until the occupier has taken remedial action, if necessary, the occupier shall not require the employee to return to a work place where there is continuing imminent or serious danger to safety or health.

(2) An employee who has left a work place, which the employee has reasonable justification to believe presents imminent and serious danger to life and health shall not be dismissed, discriminated against or disadvantaged for such action by the employer.

(3) It shall be an offence for a person on whom a duty is imposed under this section to fail to carry out that duty.

15. Duty not to interfere with or misuse things provided pursuant to certain provisions

A person who wilfully interferes with or misuses any means, appliance, convenience or other thing provided or done in the interests of safety, health and welfare in pursuance of this Act commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

16. Prohibition against creation of hazards

(1) No person shall engage in any improper activity or behaviour at the workplace, which might create or constitute a hazard to that person or any other person.

(2) For the purposes of this section, improper activity or behaviour includes boisterous play, scuffling, fighting, practical jokes, unnecessary running or jumping or similar conduct.

17. General duties of occupier and self-employed to persons other than their employees

(1) Every occupier shall conduct his undertaking in such a manner as to ensure, that a person who is not his employee who may be affected thereby is not exposed to risks to safety or health.

(2) Every self-employed person shall conduct his undertaking in such a way as to ensure that he and any other person who is not his employee who may be affected thereby is not exposed to risks to safety or health.

(3) It shall be the duty of every employer and every self-employed person to give relevant safety and health information to every person, not being his employee who may be affected by the manner in which the employer or the self employed person conducts his undertaking, on such aspects of the way he conducts his business as may affect safety or health.

(4) It shall be an offence for a person on whom a duty is imposed under this section to fail to carry out such a duty.

18. Duties of an occupier of a place of work to persons other than his employees

(1) An occupier of non-domestic premises which have been made available to persons, not being his employees, as a place of work, or as a place where the employees may use a plant or substance provided for their use there, shall take such measures as are practicable to ensure that the premises, all means of access thereto and egress therefrom available for use by persons using the premises, and any plant or substance in the premises provided for use there, are safe and without risks to health.

(2) A person who has, by virtue of a contract, lease or otherwise, an obligation of any extent in relation to the—

(a) maintenance or repair of a place of work or any means of access thereto or egress therefrom; or

(b) prevention of risks to safety and health that may arise from the use of any plant or substance in the place of work,

shall for the purpose of subsection (1), be deemed to have control of the matters to which his obligation extends.

(3) It shall be an offence for a person on whom a duty is imposed under this section to fail to carry out such a duty.

19. General duty of persons in control of certain premises in relation to harmful emissions into atmosphere

(1) An occupier of any premises likely to emit poisonous, harmful, injurious or offensive substances, into the atmosphere shall use the best practicable means to—

(a) prevent such emissions into the atmosphere; and

(b) render harmless and inoffensive the substances which may be emitted.

(2) The reference in subsection (1) to the means to be used for the purpose of that section includes a reference to the—

(a) manner in which the plant provided for those purposes is used; and

(b) supervision of any operation involving the emission of substances to which that subsection applies.

(3) An occupier who contravenes the provisions of this section commits an offence.

20. Duties of designers, manufacturers, importers, etc., with regard to articles and substances for use at work

(1) A person who designs, manufactures, imports or supplies any article for use at work shall—

(a) ensure, that the article is so designed and constructed as to be safe and without risks to health when properly used;

(b) carry out, or arrange for the carrying out of such testing and examination as may be necessary to ensure that the article is safe and without risk to health when properly used;

(c) take such steps as are necessary to ensure that there is available, in connection with the use of the article at work, adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that, when put to that use, it will be safe and without risks to health.

(2) A person who designs or manufactures any article for use at work shall carry out or arrange for the carrying out of any necessary research to identify, eliminate or minimise any risks to safety or health to which the design or article may give rise.

(3) A person who erects or installs any article for use at work in any premises where that article is to be used by a worker shall ensure, that the way in which the article is erected or installed makes it safe and not a risk to the safety and health of the worker when properly used.

(4) A person who manufactures, imports or supplies any substance for use at work shall—

(a) ensure, that the substance is safe and without risks to health when properly used;

(b) carry out or arrange for the carrying out of such testing and examination as may be necessary to ensure that the substance is safe and without risk to health when properly used;

(c) take such steps as are necessary to ensure that there is available, in connection with the use of the substance at work adequate information about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that it will be safe and without risks to health when properly used.

(5) A person who manufactures any substance for use at work shall carry out or arrange for the carrying out of any necessary research to discover and, so far as is reasonably practicable, to identify, eliminate or minimise any risks to safety or health to which the substance may give rise.

(6) Nothing in this section shall be taken to require a person to repeat any test, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of this section.

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

(8) Where a person designs, manufactures, imports an article for, or supplies an article to another person on the basis of a written undertaking by that other person to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by subsection (1)(a) to such extent as is reasonable having regard to the terms of the undertaking.

(9) Where a person ("the ostensible supplier") supplies any article for use at work or substance for use at work to another person ("the customer") under a hire-purchase agreement, conditional, sale agreement or credit-sale agreement, and the ostensible supplier—

(a) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(b) in the course of that business, acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person ("the effective supplier"),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this section as supplying the article or substance to the customer, and any duty imposed by this section on a supplier shall be imposed on the effective supplier and not on the ostensible supplier.

(10) For the purposes of this section, an article or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.

(11) A person who fails to carry out a duty imposed by this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

21. Notice of accidents and dangerous occurrences

(1) An employer or self-employed person shall notify the area occupational safety and health officer of any accident, dangerous occurrence, or occupational poisoning which has occurred at the workplace.

(2) Where an accident in a workplace causes the death of a person therein, the employer or self-employed person shall—

(a) inform the area occupational safety and health officer within twenty-four hours of the occurrence of the accident; and

(b) send a written notice of the accident in the prescribed form to the area occupational safety and health officer within seven days of the occurrence of the accident.

(3) Where an accident in a workplace causes non-fatal injuries to a person therein, the employer shall send to the area occupational safety and health officer, a written notice of the accident in the prescribed form within seven days of the occurrence of the accident.

(4) In the case of death due to a workplace accident, non-fatal injuries arising from a workplace accident, an occupational disease or a dangerous occurrence at the workplace, involving a self-employed person incapable of submitting notification, such notification shall be submitted to the area occupational safety and health officer by the occupier.

(5) An employer shall cause all workplace injuries to be entered in the general register specified in section 122.

(6) Where a person injured in an accident dies after the accident is notified under this section, the employer shall send a notice of the death in writing, to the area occupational safety and health officer as soon as he is informed of the death.

(7) Where an accident to which this section applies occurs to an employee and the occupier of the workplace is not the employer of the person injured or killed, the employer of that employee, shall immediately report the accident to the occupier or, the Director and the area occupational safety and health officer.

(8) The provisions of this section shall extend and apply to the dangerous occurrences specified in the First Schedule.

(9) The Cabinet Secretary may, on the advice of the Council, by notice in the *Gazette* amend the First Schedule.

(10) A person who fails to notify an accident or a dangerous occurrence as required under this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

22. Notification of occupational diseases

(1) A medical practitioner attending a patient who he believes to be suffering from any disease specified in the Second Schedule, contracted in any workplace, shall within seven days of attending the patient unless such a notice has been previously sent, send to the Director, a notice stating the name and full postal address of the patient, the disease from which, in the opinion of the medical practitioner, the patient is suffering, and the name and address of the workplace in which the patient was last employed.

(2) A medical practitioner who fails to send a notice in as required by subsection (1), commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings.

(3) An occupier shall send a written notice of any disease, specified in the Second Schedule, occurring in a workplace to the Director and the provisions of section 21 with respect to the notification of accidents shall *mutatis mutandis* apply to any notification of diseases.

(4) The Cabinet Secretary may, by rules apply the provisions of this section to all workplaces or any class or description of workplace to any disease other than those not specified in the Second Schedule.

Part III – ADMINISTRATION

23. The Director

(1) There shall be a Director of Occupational Safety and Health Services who shall be responsible for the administration of this Act.

(2) The Director shall be—

(a) an *ex officio* member of the Council but shall have no right to vote; and

(b) the secretary of the Council.

(3) The Director shall ensure adequate consultations on proposed occupational safety and health standards regulations and codes of practice.

(4) The Director shall—

(a) develop a five year strategic plan for improving occupational safety and health; and

(b) ensure that the plan specified in paragraph (a) meets the existing and future needs of industry and the community.

(5) The Director may, after consultation with the technical advisory committee established under section 30, issue a certificate of approval to a competent person to carry out—

(a) examination and testing of plants and equipments;

(b) medical examination of employees;

(c) medical surveillance on the health of persons employed;

(d) safety and health audits of workplaces; or

(e) any other function necessary under Act.

(6) A certificate of approval issued under this section shall be renewed annually.

(7) The Director may at any time revoke a certificate of approval issued under subsection (5).

(8) The Director—

(a) shall promote education and training in occupational safety and health;

(b) shall collect and disseminate information on occupational safety and health;

(c) shall promote occupational safety and health in all workplaces and in the community to encourage a safety and health culture in workplaces;

(d) may conduct training for enterprises, self employed persons, individuals and occupational safety and health officers;

(e) may after consultation with the technical advisory committee, approve in writing training institutions providing occupational safety and health training.

(9) A notice or certificate issued by the Director under this section may be issued for a limited period and may be varied or revoked by the Director.

24. Research and related activities

(1) The Director shall conduct directly or in collaboration with other persons or bodies, research, experiments and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating toinnovative methods, techniques and approaches of dealing with occupational safety and health problems.

(2) The Director shall develop specific plans for such research, demonstration, and experiments as are necessary to produce criteria, including criteria for identifying toxic substances, for the formulation of safety and health standards under this act; and the Director on the basis of such research, demonstration, and experiments, or any other information available to him, shall develop and publish the criteria necessary for the purposes of this Act.

(3) The Director shall develop criteria to deal with toxic material and harmful physical substances and agents which shall describe exposure levels that are safe for various periods of employment, including, but not limited to the exposure level, at which no employee will suffer impaired health, functional capacities or diminished life expectancy as a result of his work experience.

(4) The Director shall conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in this Act and shall also conduct research into the motivational and behavioural factors relating to the field of occupational safety and health.

(5) In order to develop needed information regarding potentially toxic substances or harmful physical agents, the Director, may with the approval of the Cabinet Secretary, prescribe regulations

requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which may endanger the health or safety of employees and may by such regulations, establish such programmes of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illness.

(6) The Director shall establish a safety and health institute to be known as the Occupational Safety and Health Institute to undertake research into all aspects of safety and health and to conduct safety and health skills training for occupational safety and health officers and other persons.

25. Collection of occupation safety and health statistics

In order to further the purposes of this Act, the Director shall develop and maintain an effective programme of collection, compilation and analysis of occupational safety and health statistics which shall cover work injuries and illnesses including all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

26. Appointment of occupational safety and health officers

(1) There shall be such senior deputy directors, deputy directors, assistant directors and occupational safety and health officers and such other officers as may be necessary, for the purposes of this Act.

(2) No person shall be appointed under subsection (1) unless that person is the holder of a degree in science, medicine, engineering, chemistry, physics, biochemistry, nursing, zoology, computer science, occupational safety and health or industrial hygiene.

(3) Notice of the appointment of an occupational safety and health officer shall be published in the *Gazette*.

(4) The Director shall issue to every officer appointed under this section a certificate of authorization, which shall be produced on demand to the occupier or any person in charge of a workplace, which the officer intends to enter pursuant to this Act.

27. Establishment of the National Council for Occupational Safety and Health

(1) There shall be a National Council for Occupational Safety and Health which shall advise the Cabinet Secretary on—

(a) the formulation and development of national occupational safety and health, policy framework;

(b) legislative proposals on occupational safety and health, including ways and means to give effect to International Labour Organization Conventions, and other international conventions and instruments relating to occupational safety, health, compensation and rehabilitation services;

(c) strategic means of promoting the best practices in occupational safety and health;

(d) the establishment, maintenance and development of a safety and health preventative culture;

(e) the reviewing of the provisions of this Act, rules and regulations, standards, industry codes of practice;

(f) the statistical analysis of work related deaths and injuries; and

(g) such other matters affecting occupational safety, health, as it considers desirable in the interest of improving the quality of working life in Kenya.

(2) Without limiting subsection (1), the Director may advise the Council on the formulation and publication of standards, specifications or other forms of guidance for the purpose of assisting employers, employees and other users to maintain appropriate standards of occupational health and safety.

(3) The Council shall, at the request of the Cabinet Secretary and may of its own motion, investigate and make recommendations to the Cabinet Secretary on any matter connected with the safety and health of persons at work.

(4) The Council may—

(a) establish committees in respect of different industries for the purpose of assisting the Council to perform its functions in relation to industry codes of practice; and

(b) establish such other committees as it deems necessary for the purpose of assisting the Council to perform its functions.

(5) A committee shall consist of such number of persons as may be appointed by the Council from among its members.

(6) The Council shall consider recommendations made to it by any one of its committees or any other person.

(7) The Council shall perform such other functions as the Cabinet Secretary may, from time to time assign to it.

28. Membership of the Council

(1) The Council shall consist of a Chairperson and the members specified in subsection (2) who shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(2) The members of the Council shall be—

(a) one representative from each of the following Ministries—

(i) health;

(ii) agriculture;

(iii) livestock development;

(iv) industry;

(v) water development;

(vi) local authorities; and

(vii) education;

(b) one representative from each of the following organisations and Government departments—

(i) the Government Chemist;

(ii) the Kenya Bureau of Standards;

(iii) the Central Bureau of Statistics;

(iv) the Commissioner of Insurance;

(v) the Association of Kenya Insurers;

(vi) the public universities;

(vii) the National Environmental Management Authority;

(viii) the National Council for Science and Technology;

(ix) the most representative employers organisation;

(x) the most representative workers' organisation;

(xi) the Kenya Occupational Safety and Health Association; and

(c) three persons with relevant qualifications and experience in occupational safety and health who shall not be public officers.

(3) The Chairperson of the Council shall be a person who has demonstrated ability to manage occupational safety and health at the policy level or enterprise level.

(4) In appointing a person as a member the Cabinet Secretary may consider the person's practical experience, and competence, in the management of occupational safety and health or related field.

(5) The Council may co-opt any number of persons with expert knowledge and experience whose assistance or advice it may require, but a person so co-opted shall not vote in a meeting of the Council or be counted as a member thereof for purposes of forming a quorum.

(6) The provisions of the Third Schedule shall apply to the members of the Council.

(7) The Cabinet Secretary shall with the approval of National Treasury determine the allowances of the members of the Council.

29. Annual report

As soon as practical, but within three months after the end of each financial year, the Council shall prepare and give to the Cabinet Secretary a report on the Council's operations for the year.

30. Technical advisory committee

(1) The Director may from time to time constitute a technical advisory committee.

(2) A technical advisory committee shall consist of the Director as Chairperson and not less than five other members from relevant occupational safety and health disciplines.

31. Functions of the technical advisory committee

(1) A technical advisory committee shall—

(a) approve persons for purposes of this Act;

(b) approve institutions or firms to carry out laboratory tests and analysis of substances and articles for use at workplaces;

(c) approve training syllabi to be used by organizations, institutions, firms or consultants offering occupational safety and health courses;

(d) ensure professional ethics of all approved persons and institutions;

(e) formulate and publish standards and specifications or other forms of guidance for the purpose of assisting employers, employees and other users to maintain adequate standards of occupational safety and health at the workplace;

(f) promote education and training in occupational safety and health;

(g) collect and disseminate information on occupational safety and health; and

(h) carry out any other activity relating to occupational safety and health.

(2) The Cabinet Secretary shall, with approval of the National Treasury determine the allowances for the members of the committee.

Part IV – ENFORCEMENT

32. Powers of an occupational safety and health officer

(1) An occupational safety and health officer shall, for the purpose of the execution of this Act, have power to do all or any of the following things—

(a) to enter, inspect and examine, by day or by night, a workplace, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter, inspect and examine, by day, any place which he has reasonable cause to believe to be a workplace and any part of any building of which a workplace forms part and in which he has reasonable cause to believe that explosive, highly inflammable or any other hazardous materials are stored or used:

Provided that—

(i) an occupational safety and health officer shall, whenever it is practicable so to do and will not in his opinion defeat the object of his inspection, notify the occupier or some other person in authority at a workplace of his arrival at the workplace for the purpose of inspecting it;

(ii) when an occupational safety and health officer has inspected a workplace without having first given the notification referred to in subparagraph (i) of this *proviso*, he shall, within a reasonable time after such inspection, inform the occupier and the Director in writing of the reason why no notification was given;

(b) with regard to any place of work which he has power to enter, to direct that those premises or any part of them or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation;

(c) to take such measurements and photographs and making such recordings as he may consider necessary for the purposes of any examinations or investigation under this Act;

(d) to develop and print photographs of scenes of occupational accidents;

(e) take and remove samples of any articles or substances found at any place of work which he has power to enter and of the atmosphere in or in the vicinity of such a place of work subject to the employer being notified of any sample so taken;

(f) to take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(g) to require the production of the registers, certificates, notices and documents kept in pursuance of this Act and to inspect, examine and copy any of them;

(h) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act, and of the enactments for the time being is force relating to public health, are complied with, so far as respects a workplace and any persons employed in a workplace;

(i) to require any person whom he finds in a workplace to give such information as it is in his power to give as to who is the occupier of the workplace;

(j) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a workplace, or whom he has reasonable cause to believe to be or to have been within the preceding six months employed in a workplace, and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no one shall

be required under this provision to answer any question or to give any evidence tending to incriminate himself;

(k) in the case of an occupational safety and health officer who is a medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his duties under this Act; and

(l) to exercise such other powers as may be necessary for the purposes of this Act.

(2) The occupier of every workplace, and his agents and servants, shall furnish the means required by an occupational safety and health officer as necessary for an entry, inspection, examination or inquiry, or the taking of samples, or otherwise for the exercise of his powers, under this Act in relation to that workplace.

(3) An occupational safety and health officer shall in the case of any article found in any premises which he has power to enter, being an article or substance which appears to him to have caused or is likely to cause danger to safety or health, cause it to be dismantled or subjected to any process or test but not to damage or destroy it unless this is in the circumstances necessary.

(4) In the case of any article or substance specified in subsection (3) an occupational safety and health officer may take possession of it and detain it for so long as is necessary for any of the following purposes—

(a) to examine it and do to it any thing which he has power to do under this Act;

(b) to ensure that it is not tampered with before his examination of it is completed; and

(c) to ensure that it is available for evidence in any proceedings for an offence under this Act; and

(d) to summon in writing any person whom he has reasonable cause to believe to be able to give any information relevant to any inspection, examination or investigation, to attend at a time and place specified and to give such information or to produce any relevant document.

(5) No person shall, in relation to any investigation or inquiry under this Act—

(a) without reasonable justification fail to comply with a lawful summon, request or order issued or given by an occupational safety and health officer;

(b) refuse or fail to answer to the best of his knowledge any question lawfully put to him by or with the concurrence of an occupational safety and health officer:

Provided that no person shall be obliged to answer any question whereby he may incriminate himself;

(c) in any manner whatsoever advise, encourage, incite order or persuade any person who has been directed summoned, requested or ordered to do something by an occupational safety and health officer not to comply with such direction, summons, request order or in any manner prevent him from doing so;

(d) refuse or fail when required thereto by an occupational safety and health officer to furnish him with the means or to render him the necessary assistance for holding such inquiry;

(e) refuse or fail, when required thereto by an occupational safety and health officer to attend an inquiry; or

(f) intentionally insult the occupational safety and health officer or intentionally interrupt the proceedings thereof with a view to defeat the purpose of investigation, inspection or inquiries.

(6) If any person wilfully delays an occupational safety and health officer in the exercise of any power under this section, or fails to comply with the requisition of an occupational safety and health officer in pursuance of this section or to produce any register, certificate, notice or document which he is required by or in pursuance of this Act to produce, or willfully withholds any information

as to who is the occupier of any workplace, or conceals or prevents, or attempts to conceal or prevent, or attempts to conceal or prevent, a person from appearing before or being examined by an occupational safety and health officer, that person shall be deemed to obstruct an occupational safety and health officer in execution of his duties under this Act.

(7) Where an occupational safety and health officer is obstructed in the execution of his powers or duties under this Act, the person obstructing him commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

(8) An occupier of a workplace where an occupational safety and health officer is so obstructed shall be deemed to have committed the offence specified in subsection (7).

33. Power of occupational safety and health officer to conduct proceedings

(1) An occupational safety and health officer may, although he is not an advocate, prosecute, conduct or defend before a magistrate's court any charge, information, complaint or other proceeding arising under this Act, or in the discharge of his duty as occupational safety and health officer.

(2) It shall not be an objection to the competency of an occupational safety and health officer to give evidence as a witness in any prosecution for an offence under this Act that the prosecution is brought at his instances or conducted by him.

34. Power to take samples

(1) An occupational safety and health officer may at any time, after informing the occupier or, if the occupier is not readily available, a foreman or other responsible person in the workplace, take for analysis sufficient samples of any substance used or intended to be used in a workplace, being a substance in respect of which he suspects a contravention of any rule made under this Part, or which he thinks may prove on analysis to be likely to cause bodily injury to the persons employed.

(2) The occupier, the manager or other responsible person may, at the time when a sample is taken under this section, and on providing the necessary appliances, require the occupational safety and health officer to divide the same into three parts, and to mark and seal or fasten up each part in such manner as its nature permits, and—

(a) to deliver one part to the occupier, or the manager or other responsible person aforesaid;

(b) to retain one part for future comparison;

(c) to submit one part to the analyst, and

any analysis under this section shall, if so required, be carried out by the Government Chemist or a laboratory approved by the Director.

(3) A certificate purporting to be a certificate by the Government Chemist or a laboratory approved by the Director as to the result of an analysis of a sample under this section shall in any proceedings under this Act, be admissible as evidence ofthe matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(4) It shall not be lawful for any person, except in so far as is necessary for the purposes of a prosecution for an offence under this Act, to publish or disclose to any person the results of an analysis made under this section, and if any person acts in contravention of this subsection that commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both.

35. Power to deal with cause of imminent danger

(1) Where, in the case of any article or substance found by him in any premises which he has power to enter, an occupational safety and health officer has reasonable cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger or serious

personal injury, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

(2) Before any article or substance that forms part of a batch of similar articles or any substance is rendered harmless under this section the occupational safety and health officer shall, if it is practicable for him to do so, take a sample of the article or substance and give to a responsible person at the premises where he found it a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as an article or substance has been seized and rendered harmless under this section, the occupational safety and health officer shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and dealt with by him, and shall—

(a) give a signed copy of the report to a responsible person at the premises where the article or substance was found by him; and

(b) unless the person is the owner of the article or substance, also serve a signed copy of the report to the owner.

36. Improvement notices

If an occupational safety and health officer is of the opinion that a person—

(a) is contravening any of the provisions of this Act or rules made thereunder; or

(b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

he may serve on that person a notice (in this Part referred to as "an improvement notice") stating that he is of that opinion, specifying the provision or provisions in respect of which he is of that opinion, giving particulars of the reasons why he is of that opinion and requiring that person to remedy the contravention or, as the case may be, the matters occasioning it within such period ending not earlier than the period within which an appeal against the notice can be brought under section 38 as may be specified in the notice.

37. Prohibition notices

(1) This section applies to any activities which are being or are about to be carried on by or under the control of any person, being activities to or in relation to which this Act or the rules made thereunder apply or will, if the activities are so carried on, apply.

(2) If as regards any activities to which this section applies an occupational safety and health officer is of the opinion that, as carried on or about to be carried on by or under the control of the person in question the activities involve or, as the case may be, will involve a risk of serious personal injury, the occupational safety and health officer may serve on that person a notice (in this Part referred to as "a prohibition notice").

(3) A prohibition notice shall—

(a) state that the occupational safety and health officer is of the said opinion;

(b) specify the matters which in his opinion give or as the case may be, will give rise to the said risk;

(c) where in his opinion any of those matters involve or, as the case may be, will involve a contravention of any provision of this Act or the rules made thereunder, state that he is of that opinion, specify the provision or provisions in respect of which he is of that opinion, and the particulars of the reasons why he is of that opinion; and

(d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice

in pursuance of paragraph (b) and any associated contraventions of provisions so specified in pursuance of paragraph (c) have been remedied.

(4) A direction given under subsection (3)(d) shall take immediate effect if the occupational safety and health officer is of the opinion, and states it, that the risk of serious personal injury is or, as the case may be, will be imminent, and shall have effect to the end of a period specified in the notice in any other case.

(5) In order to enforce a prohibition imposed under this section an occupational safety and health officer may block, seal, bar, barricade, immobilise or fence off that part of the workplace, plant or machinery to which the prohibition applies, and no person shall interfere with or remove such blocking sealing, bar, barricade, immobiliser or fence.

(6) An employer shall forthwith bring the contents of a prohibition notice issued under this section to the attention of the health and safety committee at the workplace, where it exists.

(7) An employee shall not lose any wages or benefits for work not done as a result of the imposition of a prohibition notice.

(8) Any person who having been served with a prohibition notice under this section—

(a) continues to carry on the activities to which the notice relates; or

(b) breaks or removes or defeats the blocking, seal, bar, barricade, immobiliser or fence specified in subsection (5),

commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three months or to both and if the contravention in respect of which he is convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding seven days, or to both, for each day on which the offence is so continued.

38. Appeal against improvement or prohibition notice

(1) In this section "notice" means an improvement notice or a prohibition notice.

(2) A person to whom an improvement or a prohibition notice is issued under section 36 or 37 shall comply with the notice notwithstanding that an appeal against its issuance has been lodged.

(3) A person who is aggrieved by a notice issued by an occupational safety and health officer under section 36 or 37 may, within fourteen days from the date of such notice, appeal to the Director who may, after considering the appeal, by order in writing confirm, revoke or vary the notice.

(4) A person who is aggrieved by a decision of the Director made under subsection (3) may, within fourteen days from the date of the decision, appeal to an appeal committee appointed by the Cabinet Secretary under section 46.

(5) Where an improvement or a prohibition notice is issued by the Director in exercise of the powers conferred under section 36 or 37, the appeal shall be made to an appeal committee appointed by the Cabinet Secretary under section 46.

39. Provisions on prohibition notices and improvement notices

(1) In this section "a notice" means an improvement notice or prohibition notice.

(2) A notice may but need not, include directions as to the measures to be taken to remedy any contravention or matters to which the notice relates, and any such directions may be framed to—

(a) any extent by reference to any code of practice approved by the Director; and

(b) afford the person on which the notice is served a choice between ways of remedying the contravention or matter.

(3) Where any of the provisions of this Act or the rules made thereunder apply to a building or any matter connected with a building, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to requirements of any building rules to which the building or matter would be required to conform.

(4) Before an occupational safety and health officer serves a notice in connection with any premises used or about to be used as a workplace, requiring or likely to lead to the taking of measures affecting the means of escape in case of fire with which the premises are or ought to be provided, he shall consult the fire authority of the area in which the premises are located.

(5) Where an improvement notice or prohibition notice, which is to take immediate effect, has been served—

(a) the notice may be withdrawn by an occupational safety and health officer at any time before the end of the period specified therein in pursuance of section 36 or section 37, as the case may be; and

(b) the period so specified may be extended by an occupational safety and health officer at any time when an appeal against the notice is not pending.

40. Occupational safety and health officer not to disclose information or source of complaints

(1) An occupational safety and health officer shall not disclose any information obtained by him in the course of his duties and the exercise of any of the powers conferred by section 32 (including in particular, any information with respect to any manufacturing process or trade secret obtained by him in any premises entered by him by virtue of any such power) except—

(a) for the purposes of his functions;

(b) for the purposes of any legal proceedings or any investigation or inquiry authorized by Government; or

(c) with the relevant consent, that is to say, in the case of information furnished in pursuance of a requirement imposed under section 32, the consent of the person who furnished it, and, in any other case the consent of a person having responsibilities in relation to the premises where the information was obtained.

(2) Subject to subsection (1), no occupational safety and health officer shall divulge to any person the source of any complaint bringing to his notice any defect or breach of any of the provisions of this Act, and shall give no information to any owner, or occupier that a visit or inspection of any workplace was made in consequence of the receipt of such complaint.

(3) An occupational safety and health officer who contravenes the provisions of subsections (1) and (2) commits an offence.

41. Indemnity of occupational safety and health officer

No matter or thing done by an occupational safety and health officer shall if the matter or thing is done *bona fide* for the executing of the functions, powers or duties under this Act, render the officer personally liable for any action, claim or demand whatsoever.

42. Safety and health advisor

(1) Every safety and health advisor shall be issued with an annual certificate of authorization by the Director upon payment of the prescribed fee.

(2) A safety and health advisor shall not disclose any information obtained by him in the course of his duties, in respect of any manufacturing, process or trade secrets obtained by him in any premises entered by him except for purposes of—

(a) his functions under this Act; or

(b) any legal proceedings, investigations or inquiry authorized under this Act.

(3) A safety and health advisor who makes a report which is false or deficient in any material particular, or fails to send to the Director a copy of the report as required, commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months, or to both.

(4) A safety and health advisor who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings.

Part V – REGISTRATION OF WORKPLACES

43. Register of workplaces

The Director shall keep a register of workplaces in which he shall cause to be entered such particulars in relation to every workplace required to be registered under this Act as he may consider necessary.

44. Registration of workplaces

(1) Before any person occupies or uses any premises as a workplace, he shall apply for the registration of the premises by sending to the Director a written notice containing the particulars set out in the Fourth Schedule.

(2) Upon receipt of the notice referred to in subsection (1), the Director shall take such steps as may be necessary to satisfy himself that the premises are suitable for use as a workplace of the nature stated in the notice, and upon being so satisfied, shall cause the premises to be registered and shall issue to the applicant, upon payment of a prescribed fee, a certificate of registration in the form set out in the Fifth Schedule.

(3) The Director shall carry out the duties imposed upon him by this section with all practicable speed.

(4) All workplaces which were registered under the Factories and Other Places of Work Act (Repealed) shall be deemed to have been registered under this Act.

(5) Any person who, without having been issued with a certificate of registration under subsection (2), occupies or uses any premises as a workplace commits an offence and shall, on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months, or to both, and, if the contravention in respect to which he is convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding seven days, or to both, for each day on which the offence is continued.

(6) Where the Director refuses to issue a certificate of registration under this section he shall state in writing the grounds of such refusal.

(7) The occupier of a workplace registered under this Act shall notify the Director in writing of any proposed change in the registered particulars of that workplace prior to effecting the change.

(8) The occupier of a workplace who fails to comply with the provisions of subsection (7) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or to both.

(9) A person who is aggrieved by a decision of the Director made under this section may, within fourteen days from the date of the decision, appeal to an appeal committee appointed by the Cabinet Secretary under section 46.

(10) The Cabinet Secretary may, after consultation with the Council, make regulations to provide for—

(a) workplaces to be excepted from registration under this Act;

(b) the registration of premises where employees perform any work or where plant or machinery is used and the fee payable in respect of such registration;

(c) the registration of plant and machinery and the fee payable in respect of such registration.

(11) Where a person who occupies or uses any premises as a workplace has less than one hundred employees, the provisions of this section shall not apply for the first twelve months from the date of the registration of the business.

(12) The Cabinet Secretary may, through regulations, exempt certain premises from the application of subsection (11).

[Act No. 1 of 2020, s. 15.]

45. Exceptions to registration

(1) The Cabinet Secretary may, after consultation with the Council, by notice in the *Gazette*, except some classes of workplaces from the requirements of section 44.

(2) The Cabinet Secretary may only except a class of workplaces under this section if he is satisfied that there are adequate arrangements in place for the protection of the safety and health of the affected employees.

(3) An exception granted under subsection (1) shall be subject to review by the Director every five years or such shorter period as he may deem necessary in order to assess the general status of the safety and health in the classes of workplaces thereby excepted, with a view to upholding the exception or withdrawing it.

(4) After the Council adopts a report of the review referred to in subsection (3), the Cabinet Secretary may, on the advice of the Council uphold or withdraw the exception.

(5) An occupier whose workplace has been excepted shall display a copy of the notice of exception at his workplace.

(6) An occupier of a workplace not excepted under subsection (1) shall renew the certificate of registration issued under section 44 annually or after such other period as the Cabinet Secretary may, in consultation with the Council, prescribe.

46. Appeals

(1) The Cabinet Secretary shall appoint appeal committees for the purpose of considering any appeal made under sections 36, 37 and 44.

(2) An appeal committee shall consist of a Chairperson to be appointed by the Cabinet Secretary from among members of the Council and two other persons to be appointed by the Cabinet Secretary who, in his opinion, have experience and knowledge in matters relating to the subject matter of the appeal.

(3) A member of an appeal committee may be paid an allowance at such rate as the Cabinet Secretary may determine with the approval of the National Treasury.

(4) An appeal committee may, after hearing an appeal, confirm, revoke or vary a decision made by the Director under section 36, 37, 38(3) or 44 and the decision of the appeal committee shall be final.

(5) An appeal committee shall determine and communicate its decision to the person making the appeal within fourteen days of the determination.

Part VI – HEALTH GENERAL PROVISIONS

47. Cleanliness

(1) Every workplace shall be kept in a clean state, and free from effluvia arising from any drain, sanitary convenience or nuisance, and, without prejudice to the generality of subsection (1)—

(a) accumulations of dirt and refuse shall be removed daily by a suitable method from the floors 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 washing or, if it is effective and suitable, by sweeping or by any other method;

(c) all inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of passages and staircase, shall—

(i) where they have a smooth impervious surface, at least once in every period of twelve months, be washed with hot water and soap or cleaned by other suitable method;

(ii) where they are kept painted with oil paint or varnished, be repainted or varnished at least once in every period of five years, or such other period as the Director may deem necessary, and at least once in every period of twelve months be washed with hot water and soap or cleaned by other suitable method; and

(iii) in other cases, be kept whitewashed or colour washed, and the whitewashing or colour washing shall be repeated at least once in every period of twelve months:

Provided that where it appears to the Cabinet Secretary that in any class or description of workplaces or part thereof any of the provisions of this section are not required for the purpose of keeping the workplace in a clean state, or are by reason of special circumstances inappropriate or inadequate for such purpose, he may, if he thinks fit, by order direct that those provisions shall not apply to any workplace, or part of a workplace, of that class or description, or shall apply as varied by the order.

(2) An occupier who contravenes the provisions of this section commits an offence.

48. Overcrowding

(1) An occupier shall ensure that his workplace shall not, while work is carried on, be so overcrowded as to cause risk of injury to the health of the persons employed therein.

(2) Without prejudice to the generality of subsection (1) a workplace shall be of sufficient size for work to be carried out with ease and shall further have the necessary free space and, having regard to the nature of the work, an adequate amount of air for each employee, the minimum permissible being ten cubic metres per person:

Provided that, in determining, for the purposes of this subsection the amount of cubic space in any room, no space more than four point five metres from the floor shall be taken into account, and, where a room contains a gallery, the gallery shall be treated for the purposes of this subsection as if it were partitioned off from the remainder of the room and formed a separate room.

(3) Every workroom shall be not 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:

Provided that, if the Director is satisfied that owing to the special conditions under which the work is carried on in any workroom the application of the provisions of this subsection to that workroom

would be inappropriate or unnecessary, he may be certificate in writing except the work room from those provisions subject to any conditions specified in the certificate.

(4) An occupier who contravenes the provisions of this section commits an offence.

49. Ventilation

(1) An occupier shall ensure that effective and suitable provision is made for securing and maintaining, by the circulation of fresh air in each workroom, the adequate ventilation of the room.

(2) The Cabinet Secretary may by rules, prescribe a standard of adequate ventilation for workplaces or for any class or description of workplaces or part thereof and for any other places of work.

(3) An occupier who contravenes the provisions of this section commits an offence.

50. Lighting

(1) An occupier shall ensure that effective provision is made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of his workplace in which persons are working or passing.

(2) All glazed windows and skylights used for the lighting of workrooms shall, so far as practicable be kept clean on both the inner and outer surface and free from obstruction:

Provided that this subsection shall not affect the white-washing or shading or windows and skylights for the purpose of mitigating heat or glare.

(3) Nothing in subsections (2) and (3) or in any rules made there under, shall be considered as enabling direction to be prescribed or otherwise given as to whether any artificial lighting is to be produced by any particular source of light.

(4) An occupier who contravenes the provisions of this section commits an offence.

51. Drainage of floors

Where any process is carried on which renders the floor liable to be wet to such an extent that the wet is capable of being removed by drainage, effective means shall be provided and maintained for draining off the wet.

52. Sanitary conveniences

(1) Sufficient and suitable sanitary conveniences for the persons employed in the workplace shall be provided, maintained and kept clean, and effective provision shall be made for lighting the conveniences; and, where persons of both sexes are or are intended to be employed (except in the case of workplaces where the only persons employed are members of the same family dwelling there), such conveniences shall afford proper separate accommodation for persons of each sex.

(2) The Cabinet Secretary may make rules for determining for workplaces or for any class or description of workplace what is sufficient and suitable provision for the purpose of this section.

53. Enforcement of section 52 by local authorities

The provisions of section 52 and of any rules made thereunder shall, in such areas as the Cabinet Secretary may by notice in the *Gazette* direct, be enforced by the local authority.

54. Duty of occupational safety and health officer as to sanitary defects remediable by local authority

Where an occupational safety and health officer finds any act or default in relation to any drain, sanitary convenience, water supply, nuisance or other matter in a workplace which is liable to be dealt with by the

local authority under this Part or under the law relating to public health, he shall give notice therefore in writing to the local authority.

Part VII – MACHINERY SAFETY

55. Safe use of plant, machinery and equipment

All plant, machinery and equipment whether fixed or mobile for use either at the workplace or as a workplace, shall only be used for work which they are designed for and be operated by a competent person.

56. Prime movers

(1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except prime mover referred to in subsection (3), shall be securely fenced, whether the flywheel or prime mover is situated in an engine-house or not.

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

(3) Every part of an electric generator, motor and rotary converter, and every flywheel directly connected thereto, shall be securely fenced.

57. Transmission machinery

(1) Every part of transmission machinery shall be securely fenced.

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

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

(4) No driving-belt when not in use shall be allowed to rest or ride upon a revolving shaft which forms part of the transmission machinery.

(5) Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving-belts to and from fast and loose pulleys which form part of the transmission machinery and any such gear or appliances shall be so constructed, placed and maintained as to prevent the driving-belt from creeping back on to the fast pulley.

(6) The Director may by certificate in writing grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of subsections (2), (3), (4) and (5) in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

58. Other machinery

(1) Every dangerous part of any machinery, other than prime movers and transmission machinery shall be securely fenced:

Provided that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this subsection shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with the part.

(2) Any part of a stock-bar which projects beyond the head-stock of a lathe shall be securely fenced.

59. Hand-held and portable power tools and equipments

(1) Every employer shall—

(a) be responsible for the safe condition of tools and equipment used by his employees, including tools and equipment which may be furnished by the employees;

(b) ensure that no equipment or portable power tools shall be used in an environment that contains or is likely to contain flammable vapours or substances unless they are intrinsically safe for such environments.

(2) All power driven portable and hand-held tools shall have their operating controls so located as to minimise the possibility of their accidental operation if such an accidental operation would constitute a hazard to the worker or other persons.

60. Construction and maintenance of fencing

All fencing or other safeguards provided in pursuance of the provisions of this Part shall be of substantial construction, constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use.

61. Construction and disposal of new machinery

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

(a) every set-screw, bolt or key on any revolving shaft spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as 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.

(2) An importer, manufacturer, designer or supplier of machinery, plant, and equipment shall avail information concerning the correct installation, use, maintenance and disposal of the machinery, plant and equipment and provide information on any likely hazards and means to prevent or control them.

(3) A 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, knowing it to be for use in a workplace in Kenya, any machine intended to be driven by mechanical power which does not comply with the requirements of this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings.

62. Self-acting machines

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

(2) An occupier shall ensure that all practicable steps are taken to instruct the person in charge of the machine and otherwise to ensure that no person employed shall be 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.

63. Hoists and lifts

(1) Every hoist or lift shall be of good mechanical construction, sound material and adequate strength, free from patent defect and be properly maintained.

(2) Every hoist or lift shall be thoroughly examined at least once in every period of six months or after any modifications or extensive repairs or within a shorter period, by a person approved for the purposes of this section by the Director by certificate in writing, and a report of the result of every such examination, in the prescribed form and containing the prescribed particulars, shall be signed by the person carrying out the examination and shall be entered in or attached to the general register within fourteen days of the examination.

(3) Where the examination under subsection (2) shows that the hoist or lift cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time, the person making the report, shall—

(a) inform the area occupational safety and health officer within twenty-four hours of the completion of the examination who may then issue an improvement notice or a prohibition notice as appropriate; and

(b) send a written notice of the examination in the prescribed form containing the prescribed particulars to the area occupational safety and health office within seven days of its occurrence.

(4) Every hoist way or lift way shall be efficiently protected by a substantial enclosure fitted with gates, being such an enclosure as to prevent, when the gates are shut, any person falling down the hoist way or lift way or coming into contact with any moving part of the hoist or lift.

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

(6) Every hoist or lift and every enclosure shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the counterbalance weight and any other moving part of the hoist of 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 that load shall be carried on any hoist or lift.

(8) The following additional requirements shall apply to hoists and lifts used for carrying persons, whether together with goods or otherwise—

(a) efficient automatic devices shall be provided and maintained to prevent the cage or platform over-running;

(b) every cage shall, on each side from which access is afforded to a landing, be fitted with a gate, and in connection with every such 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 the gate is closed, and will come to rest when the gate is opened; and

(c) where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will 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.

(9) Where a hoist or lift is not connected with mechanical power—

(a) in subsection (2) the reference to six months shall be substituted by a reference to twelve months;

(b) subsection (5) shall be substituted by the following subsection (5) Any gate referred to in subsection (4) shall be kept closed and fastened except when the cage or platform is at rest at the landing; and

(c) subsection (8) shall not apply.

(10) For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage the direction of movement of which is restricted by a guide or guides.

64. Chains, ropes and lifting tackle

(1) The following provisions shall be complied with respect to every chain, rope or lifting tackle used for the purpose of raising or lowering persons, goods or materials—

(a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;

(b) a table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be prominently displayed on the premises, so, however, that the provisions of this paragraph shall not apply in relation to any lifting tackle if the safe working load thereof, or in the case of a multiple sling the safe working load at different angles of the legs, is plainly marked upon it;

(c) no chain, rope or lifting tackle shall be used for any load exceeding the safe working load thereof as shown by the table referred to in paragraph (b) or marked upon it;

(d) all chains, ropes and lifting tackle in use shall be thoroughly examined at least once in every period of six months, or at such greater intervals as the Director may in any particular case permit, by a person approved for the purposes of this section by the Director by certificate in writing;

(e) no chain, rope or lifting tackle, except a fibre rope or fibre rope sling, shall be used in any workplace for in that workplace unless it has been tested and thoroughly examined by a person approved by the Director for the purposes of this section, and a certificate of such a test and examination, specifying the safe working load and signed by the person carrying out the test and examination, has been obtained and is kept available for inspection:

Provided that the provisions of this paragraph shall not apply as respects any chain, rope or lifting tackle in respect of which there has been obtained, and is kept available for inspection, a certificate of test and thorough examination issued by the manufacturer of the chain, rope or lifting tackle;

(f) every chain and lifting tackle, except a rope sling, shall, unless of a class or description exempted by the Director by notice published in the *Gazette*, be annealed at least once in every fourteen months, or, in the case of a chain or sling of half-inch bar or smaller, or chain used in connexion with molten metal or molten slag, in every six months, so, however, that a chain and lifting tackle not in regular use need be annealed only when necessary.

(2) In this section, "lifting tackle" means chain slings, rope slings, rings, hooks, shackles and swivels.

65. Cranes and other lifting machines

(1) All parts and working gear whether fixed or movable, including the anchoring and fixing appliances, of every lifting machine shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) All parts and gear referred to in subsection (1) shall be thoroughly examined, at least once in every period of twelve months, or after any modifications or extensive repairs or within a shorter period, by a person approved for the purposes of this section by the Director by certificate in writing.

(3) No lifting machine shall be used in any workplace, for the first time in that workplace, unless it has been tested and all the parts and working gear of the machine specified in subsection (1) have been thoroughly examined by a person approved by the Director for the purposes of this section and a

certificate of the test and examination, specifying the safe working load or loads of the machine and signed by the person who carried out the test and examination, has been obtained and is kept available for inspection:

Provided that the provisions of this subsection shall not apply with respect to any lifting machine in respect of which there has been obtained, and is kept available for inspection, a certificate of test and thorough examination issued by the manufacturer of the machine.

(4) 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 any such rails or track shall be properly laid, adequately supported or suspended and properly maintained.

(5) There shall be plainly marked on every lifting machine the safe working load or loads thereof, except that in the case of a jib crane so constructed that the safe working load may be varied by the raising or lowering of the jib there shall be attached thereto either an automatic indicator of safe working loads or a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(6) No lifting machine shall, except for the purpose of a test, be loaded beyond the safe working load as marked or indicated under subsection (5).

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

(8) A lifting machine shall not be operated except by a person who is trained and possesses a certificate in writing to that effect from a recognised institution, to operate that machine, except that it shall be permissible for such machine to be operated by a person who is under the direct supervision of a qualified person for the purposes of training, and no person under the apparent age of eighteen years of age shall be employed to operate any lifting machine driven by mechanical power or to give signals to the operator of any such machine.

(9) In this section, "lifting machine" includes a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway used for raising or lowering of goods.

66. Register of chains, ropes and lifting tackle and lifting machines

A register, containing the particulars set out in the Sixth Schedule, shall be kept in every workplace with respect to all chains, ropes or lifting tackle except fibre rope slings, to which section 64 applies, and with respect to all lifting machines to which section 65 applies.

67. Steam boilers

(1) Every 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—

(a) have attached to it—

(i) a suitable safety valve, separate from and incapable of being isolated by any stop-valve, which shall be so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler, and a suitable stop-valve connecting the boiler to the steam pipe;

(ii) 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;

(iii) at least one water gauge, of transparent material or other type approved by the Director, to show the water level in the boiler, and, if the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds two point eight kilograms per square centimetre, the gauge shall be provided with an efficient guard but not so as to obstruct the reading to the gauge;

(iv) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible;

(b) be provided with means for attaching a test pressure gauge; and

(c) be provided with a suitable fusible plug or an efficient low-water alarm device:

Provided that subparagraph (ii) of paragraph (a) shall not apply with respect to economizers, and subparagraphs (iii), (iv) and (v) of paragraph (a), and paragraphs (b) and (c), shall not apply with respect to economizers or superheaters.

(3) For the purposes of subsection (2), a lever-valve shall not be deemed a suitable safety valve unless the weight is secured on the lever in the correct position.

(4) Every steam boiler attendant shall be properly instructed on his duties.

(5) No person shall 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 might otherwise enter the boiler from any other part of the range are disconnected from that part; or

(b) all valves or taps controlling such entry are closed and securely locked, and, where the boiler has a blow-off pipe in common with one or more other boiler or delivering into a common blow-off vessel or sump, the blow-off valve or tap on each such boiler is so constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blow-off valves or taps.

(6) No work shall be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled by ventilation or otherwise to make work safe for persons employed.

(7) The boiler room shall be kept clean and shall not be used as a resting place or storeroom or for any other purpose at any given time.

(8) Every steam boiler and all its fittings and attachments shall be thoroughly examined by an approved person, at least once in every period of twelve months, and also after any modifications or extensive repairs:

Provided that the person carrying out any such examination may specify in writing a period exceeding twelve months but not exceeding fifteen months within which the next examination is to be carried out.

(9) Any examination in accordance with the requirements of subsection (8) shall consist, in the first place, of an examination of the boiler when it is cold and the interior and exterior have been prepared in the prescribed manner, and secondly, except in the case of an economizer or super heater, of an examination when it is under normal steam pressure; the examination under steam pressure shall be made as soon as possible after the examination of the boiler when cold, and the person carrying out the examination shall see that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

(10) The Seventh Schedule shall apply in respect of an examination of a boiler when it is cold.

(11) A report of the result of an examination under subsection (8) shall be made in the prescribed form and containing the prescribed particulars, including particulars of the maximum permissible working pressure, and shall be signed by the person who carried out the examination as soon as

practicable and in any casewithin twenty-eight days of the completion of the examination and be entered in or attached to the general register.

(12) For the purposes of subsections (11), (13) and (14), the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(13) No steam boiler which has previously been used shall be taken into use in any workplace or premises for the first time in that workplace or premises until it has been examined and reported on in accordance with subsections (8), (9) and (11).

(14) No new steam boiler shall be taken into use for the first time in any workplace unless there has been obtained in respect thereof—

(a) the manufacturer's complete specifications which shall include full details of the composition and physical properties of all rivets, plates, sections, tubes, bars and electrodes used for pressure part;

(b) dimensional drawings of the complete boiler showing the thickness of plates, details of riveting and the position and extent of all welds;

(c) the manufacturer's certificate of test; and

(d) a certificate specifying the maximum permissible working pressure of the boiler, stating the nature of the tests to which the boiler, attachments and fittings have been submitted, issued and signed by the person making the examination.

(15) The person carrying out an examination under this section shall within twenty-four hours of the examination, report to the area occupational safety and health officer, any defect which would render the boiler imminently dangerous if not rectified immediately.

(16) The person making the report of an examination under this section shall, within seven days, after completion of the examination, send to the area occupational safety and health office, a copy of the written report in every case where the maximum permissible working pressure is reduced, or where the boiler cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time and the officer in charge of the office may, on the basis of the report, issue an improvement notice or prohibition notice as appropriate.

(17) If the person making the examination under this section fails to carry out a thorough examination as required by this section, makes a report which is false or deficient in any material particular, or fails to send to the Director a copy of any report as required, that person commits an offence shall an conviction be liable to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

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

(19) In this section—

"approved person" means any person who is approved by the Director, by certificate in writing, to carry out examinations of steam boilers in accordance with, and for the purposes of, this section and to issue the certificate referred to in subsection (11);

"maximum permissible working pressure", in the case of a new steam boiler means, that specified in the certificate referred to in subsection (14) of this section, and, in the case of a steam boiler which has been examined in accordance with this section, that specified in the report of the last examination.

68. Steam receivers and steam containers

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

(2) Every steam receiver, not so constructed and maintained as 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 other 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 being exceeded;

(b) a suitable safety valve so adjusted as 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 soon as the safe working pressure is exceeded;

(c) a correct steam pressure gauge, which shall indicate the pressure of steam in the receiver in kilograms per square centimetre;

(d) a suitable stop valve;

(e) except where only one steam receiver is in use, a plate bearing a distinctive number which shall be easily visible,

and the safety valve and pressure gauge shall be fitted either 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 being exceeded.

(3) For the purposes of paragraphs (a), (b), (c) and (d) of subsection (2), any set of receivers supplied with steam through a single pipe and forming part of a single machine may be treated as one receiver, and for the purpose paragraphs (a), (b) and (c) of subsection (2), any other set of receivers supplied with steam through a single pipe may be treated as one receiver:

Provided that this subsection shall not apply to any such set of receivers unless the reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the said single pipe.

(4) Every steam receiver and all its fittings shall be thoroughly examined by an approved person, so far as the construction of the receiver permits, at least once in every period of twenty-four months or after repairs.

(5) A report of the result of every examination referred to in subsection (4), shall be in the prescribed form containing the prescribed particulars, including particulars of the safe working pressure and shall be entered in or attached to the general register, shall be signed by the person who carried out the examination.

(6) No steam receiver which has previously been used shall be taken into use in any workplace for the first time in that workplace until it has been examined and reported on in accordance with subsections (4) and (5).

(7) No new steam receiver shall be used in a workplace for the first time unless there has been obtained from the manufacturer of the receiver, or from a person approved by the Director, a certificate specifying the safe working pressure of the receiver stating the nature of the tests to which the receiver and fittings have been submitted, and the certificate is kept available for inspection, and the receiver is so marked as to enable it to be identified as the receiver to which the certificate relates.

(8) No person shall use, in any workplace, a steam receiver, or a steam container which does not comply with the standards set out in this section.

(9) Every steam container shall be so maintained as to secure that the outlet is at all times kept open and free from obstruction.

(10) In this section—

"approved person" means any person who is approved by the Director, by certificate in writing, to carry out examinations of steam receivers in accordance with, and for the purposes of, this section and to issue the certificate referred to in subsection (6);

"maximum permissible working pressure" has the same meaning as in section 67;

"safe working pressure" means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6) and, in the case of a steam receiver which has been examined in accordance with the provisions of this section, that specified in the report of the last examination;

"steam container" means any vessel, other than a steam pipe or coil, constructed with a permanent outlet into the atmosphere or into a space where the pressure does not exceed 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, a steam container, a steam pipe or coil, or a part of a prime mover used for containing steam under pressure greater than atmospheric pressure.

69. Air receivers

(1) Every air receiver shall—

(a) have marked upon it, so as to be plainly visible, the safe working pressure;

(b) in the case of a receiver connected with an air compressing plant either be so constructed as to withstand with safety, the maximum pressure which can 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 being exceeded;

(c) be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded;

(d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch;

(e) be fitted with a suitable appliance for draining the receiver;

(f) be provided with a suitable manhole, hand hole or other means which will allow the interior to be thoroughly cleaned; and

(g) in a case where more than one receiver is in use in the workplace, bear a distinguishing mark which shall be easily visible.

(2) For the purpose of the provisions 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:

Provided that, in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the said single pipe.

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

(4) No person shall use in any workplace, an air receiver which does not comply with the standards set out in this section.

(5) Every air receiver shall be thoroughly cleaned and undergo a thorough examination by an approved person at least once in every period of twenty-four months or after any extensive repairs:

Provided that in the case of a receiver of solid drawn construction—

(a) the person making any such examination may specify in writing, a period exceeding twelve months but not exceeding forty-eight months within which the next examination is to be carried out; and

(b) if it so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination,

every such examination and test shall be carried out by an approved person, and a report of the result of every such examination and test, shall be in the prescribed form containing the prescribed particulars, including particulars of the safe working pressure, be signed by the person who carried out the examination or test and be entered in or attached to the general register.

(6) In this section—

"air receiver" means—

(a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant; or

(b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine;

"approved person" means any person who is approved by the Director, by certificate in writing for the purpose of carrying out examinations and tests of air receivers in accordance with, and for the purposes of this section.

70. Cylinders for compressed, liquefied and dissolved gases

(1) Every cylinder for compressed, liquefied and dissolved gases, and its fittings, shall be—

(a) so designed as to be suitable for the particular circumstances of their use; and

(b) of sufficient strength to sustain the internal pressures to which they will normally be subjected.

(2) Every cylinder for compressed, liquefied and dissolved gases shall conform to a standard specification prescribed under the Standards Act (Cap. 496) or where a standard is not prescribed, a standard specification approved by the Director and the Kenya Bureau of Standards for purposes of this Act and shall be of good construction, sound material, adequate strength and free from patent defect.

(3) Every cylinder, when constructed or sold, shall be covered by the manufacturer's test certificate showing compliance with the safety and health standards specifications prescribed under section 4, and the certificate shall be obtainable, during the whole life of the cylinder, from the owner of the cylinder.

(4) Every cylinder owner shall keep a cylinder maintenance register in which shall be noted, under the corresponding dates, all tests, internal and external examination, cleanings and repairs undertaken on the cylinder, and the register shall be available for inspection by an occupational safety and health officer at all times.

(5) It shall be the duty of a cylinder owner to ensure that all cylinders belonging to him are examined and tested and the results of such examinations and tests are entered in the cylinder maintenance register by a person approved by the Director by certificate in writing—

(a) before being placed in service for the first time; or

(b) before being placed in service after repairs other than changing the neck ring which carried the cap, re-tapping the neck or changing the foot-ring; and

(c) at intervals not exceeding two years in the case of cylinders for corrosive gases and five years in the case of cylinders for other gases.

(6) The test that a cylinder other than an acetylene cylinder shall undergo to comply with the provisions of subsection (5) shall comprise—

(a) a hydraulic pressure test which shall exceed the maximum permissible working pressure; and

(b) an internal and external examination in accordance with the requirements of the standard specification referred to in subsection (2) of this section.

(7) The following particulars shall be clearly and boldly marked on every

cylinder—

(a) owner's name;

(b) registered number as shown in maintenance register;

(c) clear indication of the gas to be charged;

(d) date of type of test undertaken;

(e) country and year of manufacture;

(f) permissible maximum charging pressure; and

(g) standard specification used.

(8) Every cylinder for compressed, liquefied and dissolved gases shall be clearly marked for the purpose of identification of their contents in a colour conforming to a standard specification of cylinder colour markings.

(9) Markings required under the provisions of subsection (7) shall not be—

(a) cut into the metal of the cylinder unless special reinforcement has been provided for that purpose; or

(b) placed on the cap.

(10) In addition to the requirements of subsection (7), every cylinder for—

(a) liquefied gases shall be clearly and boldly marked with the permissible maximum weight of the charge of gas for which the cylinder is designed;

(b) the compressed gases shall be clearly and boldly marked with the permissible maximum weight of the charge of gas for which the cylinder is designed; and

(c) the compressed gases shall be clearly and boldly marked with the cubic capacity.

(11) Before being charged for the purposes of subsection (10), every cylinder shall—

(a) be carefully examined at the charging station to ensure that it complies with the provisions of this section; and

(b) except in the case of acetylene, be completely emptied.

(12) Every cylinder for liquefied gases with a critical temperature exceeding the usual ambient temperature shall not be completely filled in order to prevent the generation of dangerous pressure when used at temperatures exceeding this critical temperature, and, cylinders for liquefied gases shall be weighted during charging.

71. Refrigeration plants

(1) Every refrigeration plant capable of being entered by an employee shall—

(a) have all control valves situated outside the cold storage room; and

(b) have all doors of the cold storage room capable of being opened easily and quickly from the inside and outside.

(2) Every refrigeration plant which has a positive displacement compressor shall be provided with—

(a) an automatic pressure relief device for that compressor; and

(b) a suitable pressure gauge to indicate the discharge pressure from such plant.

(3) The occupier of a workplace in which a refrigeration plant specified in subsection (1) is in use, shall cause an approved person to examine, test and certify at least once in every period of twelve months the entire plant together with all its components and auxiliary parts.

(4) A report of the examination shall be in the prescribed form containing the prescribed particulars, be signed by the person making the examination and shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register.

(5) In this section—

"approved person" means any person who is approved by the Director, by certificate in writing for the purpose of carrying out examinations and tests of refrigeration plants in accordance with, and for the purposes of this section.

72. Examination and testing of plants

Any person who, for the purposes of this Part, desires that an examination of any equipment or plant be carried out by a person approved for that purpose under this Part, and any person who desires to obtain the certificates referred to in sections 63, 64, 65, 67, 68, 69, 70 and 71 from any such approved person, may, on paymentof the prescribed fee, request such an approved person to carry out the necessary tests and examination with a view to obtaining the certificate.

Part VIII – SAFETY GENERAL PROVISIONS

73. Vessels containing dangerous liquids

(1) Every fixed vessel, structure, sump or pit of which the edge is less than one metre above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or be securely fenced to at least that height to prevent any person from falling into the vessel, structure, sump or pit.

(2) A plant referred to in subsection (1) shall have a warning notice, indicating the nature of the danger, in a form readily understood by the persons in the workplace and shall be marked on or attached to the plant or, if this is not practicable, be posted in a conspicuous location near the plant.

74. Storage

(1) All goods, articles and substances stored in a workplace shall be stored or stacked—

(a) in such manner as will ensure their stability and prevent any fall or collapse of the stack;

(b) in such manner as not to interfere with the adequate distribution of natural or artificial light, the natural ventilation systems, the proper operation of machines or other equipment, the

unobstructed use of passageways, gangways or traffic lanes, the efficient functioning of sprinkler systems, and the unobstructed access to other fire extinguishing equipments within the workplace; and

(c) on firm foundations not liable to overload any floor.

(2) No goods, articles or substances shall be stored or stacked against a wall or partition unless the wall or partition is of sufficient strength to withstand any pressure caused thereby.

75. Ladders

(1) Every ladder to be issued in a workplace shall be of good construction, sound material, adequate strength and suitable for the purpose for which it is used and shall be properly maintained.

(2) No ladder shall be used unless—

(a) it is securely fixed in a position to prevent it from slipping or falling, except that when this is impracticable, a person shall be stationed at the base of the ladder to prevent it from slipping or falling;

(b) it stands on a firm and level footing except in the case of suspended ladder;

(c) it is secured where necessary to prevent undue swaying or sagging;

(d) it is equally and properly supported on each stile or side;

(e) in the absence of adequate handhold, it extends at least one metre above the place of landing or the highest rung to be reached by the feet of the person using the ladder, or if this is impracticable, to the greatest height; and

(f) there is sufficient space at each rung to provide adequate foothold.

(3) Subsection (2) shall not apply to any folding stepladder, provided that it has a level and firm footing and is used in the fully open position with any spreaders locked.

76. Ergonomics at the workplace

(1) Machinery, equipment, personal protective equipment, appliances and hand tools used in all workplaces shall comply with the prescribed safety and health standards and be appropriately installed, maintained and safe guarded.

(2) Every employer shall take necessary steps to ensure that workstations, equipment and work tasks are adapted to fit the employee and the employee's ability including protection against mental strain.

(3) Every manufacturer, importer and supplier or an agent of a manufacturer, importer and supplier of the machinery and equipment referred to in subsection (1) shall ensure that the equipment complies with the safety and health standards prescribed under this Act and shall provide adequate and appropriate information including hazard warning signs.

(4) An employer shall not require or permit any of his employees to engage in the manual handling or transportation of a load which by reason of its weight is likely to cause the employee to suffer bodily injury.

77. Safe means of access and safe place of employment

(1) All floors, steps, stairs, passages and gangways in a workplace shall be of sound construction and be properly maintained.

(2) All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable.

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

(4) Necessary precautions including warning signs, shall be taken to prevent injury to employees and other persons at a workplace from mobile plants, falling objects and objects ejected from machines and work processes.

(5) For every staircase in a building or affording a means of exit from a building, a substantial hand-rail shall be provided and maintained, which, if the staircase has an open side, shall be on that side, and, in the case of a staircase having two open sides, such a handrail shall be provided and maintained on both sides; and any open side of a staircase shall also be guarded by the provision and maintenance of a lower rail or other effective means.

(6) Sufficient clear and unobstructed space shall be maintained at every machine while in motion to enable the work to be carried on without unnecessary risk.

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

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

(9) While any person is within a workplace for the purpose of employment or meals, the doors of the workplace, and of any room therein in which the person is, and any doors which afford a means of exit for persons employed in the workplace from any building or from any enclosure in which the workplace is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside.

78. Fire prevention

(1) All stocks of highly inflammable substances shall be kept either in a fire-resisting store or in a safe place outside any occupied building:

Provided that no such store shall be so situated as to endanger the means of escape from the workplace or from any part thereof in the event of a fire occurring in the store.

(2) Where highly flammable liquids are to be conveyed within a workplace they shall, where it is practicable so to do, be conveyed through a totally enclosed system incorporating pipe-lines and pumps or similar appliances but where conveyance of highly flammable liquids within a workplace through such a totally enclosed system is not practicable, they shall be conveyed in vessels which are so designed and constructed as to avoid so far as practicable, the risk of spilling.

(3) Where in any process or operation any highly flammable liquid is liable to be spilled or to leak, all reasonably practicable steps shall be taken to ensure that any highly flammable liquid, which is spilt, or leaks shall be contained or immediately drained off to a suitable container or to a safe place, or otherwise treated to make it safe.

(4) No means likely to ignite vapours from highly flammable liquids shall be present where a dangerous concentration of vapours from flammable liquids may reasonably be expected to be present.

(5) No person shall smoke, light or carry matches, lighters or other flame producing articles, or smoking materials, in any place in which explosive, highly flammable or highly combustible substances, are manufactured, used, handled or stored and the occupier shall take all practicable steps to ensure compliance with the foregoing provisions of this subsection, including the display at or as near as possible to every place in which this subsection applies, a clear and bold notice indicating that smoking is prohibited in that place.

79. Precautions in places where dangerous fumes likely

(1) Where work has to be done inside any chamber, tank, vat, pit or other confined space, in which dangerous fumes are liable to be present—

(a) the confined space shall be provided with adequate means of egress; and

(b) no person shall enter the confined space for any purposes unless the following requirements are complied with—

(i) all practicable steps shall be taken to remove any fumes which may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or

(ii) the person entering shall wear a suitable breathing apparatus; and

(c) suitable breathing apparatus, a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible;

(d) a sufficient number of the persons employed shall be trained and practiced in the use of such apparatus and in the method of restoring respiration; and

(e) no person shall enter a confined space for any purpose unless authorized in writing by the occupier.

(2) No person shall perform work in a confined space unless he is sufficiently trained and informed on hazards involved in confined spaces.

80. Precautions with respect to explosive or inflammable dust or gas

(1) Where, in connection with any grinding, sieving or other process giving rise to dust, there may escape into any workroom, dust of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of the dust, and by exclusion or effective enclosure of possible sources of ignition.

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

(3) Where any part of a plant contains any explosive or highly flammable liquid, gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened, except in accordance with the following provisions—

(a) before the fastening of any joint of any pipe connected with the part of the plant or the fastening of the cover of any opening into the part is loosened, any flow of the liquid, gas or vapour into the part or into any such pipe shall be effectively stopped by a stop-valve or otherwise; and

(b) before any such fastening is removed, all practicable steps shall be taken to reduce the pressure of the liquid, gas or vapour in the pipe or part of the plant to atmospheric pressure; and if any such fastening has been loosened or removed, no explosive or flammable liquid, gas or vapour shall be allowed to enter the pipe or part of the plant until the fastening has been secured or, as the case may be, securely replaced.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance

and any fumes arising there from, or to render them non-explosive or non-inflammable; and, if any plant, tank or vessel has been subjected to any such operation, 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 Director may, by certificate in writing and subject to any condition specified in the certificate, exempt any part of a plant from compliance with any of the requirements of subsection (3) in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

81. Safety provisions in case of fire

(1) In every workplace or workroom there shall be—

(a) provided and maintained, and conspicuously displayed and free from any obstruction so as to be readily accessible, means for extinguishing fire, which shall be adequate and suitable having regard to the circumstances of each case; and

(b) present, persons trained in the correct use of such means of extinguishing fire during all working hours.

(2) Every workplace shall be provided with adequate means of escape, in case of fire, for the persons employed therein, having regard to the circumstances of each case.

(3) All the means of escape referred to in subsection (2) shall be properly maintained and kept free from obstruction.

(4) The contents of any room in which persons are employed shall be so arranged that there is a free passageway for all persons working in the room to a means of escape in case of fire.

(5) All doors affording a means of exit from the workplace for the persons employed therein shall, except in the case of sliding doors, be constructed to open outwards.

(6) While any person is within a workplace for the purpose of employment or meals, the doors of the workplace, and of any room therein in which the person is, and any doors which afford a means of exit for persons employed in the workplace from any building or from any enclosure in which the workplace is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside.

(7) Every window door or other exit affording means of escape in case of fire or giving access thereto, 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.

(8) There shall be marked on the floor of every workroom gangways to facilitate proper arrangement of the contents of the workroom with a view to keeping all fire extinguisher points and fire exits free from obstruction and for ensuring proper housekeeping.

(9) Every occupier of a workplace shall take effective steps to ensure that all the persons employed therein are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire.

82. Evacuation procedures

(1) Every occupier of a workplace shall design evacuation procedures to be used during any emergency and have the procedures tested at regular intervals.

(2) Every occupier shall take immediate steps to stop any operation where there is an imminent and serious danger to safety and health and to evacuate persons employed as appropriate.

(3) Every occupier shall be required to provide where necessary, measures to deal with emergencies and accidents including adequate first aid arrangements.

(4) Every occupier shall take effective steps to ensure that all persons employed are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire or other emergency.

Part IX – CHEMICAL SAFETY

83. The handling, transportation and disposal of chemicals and other hazardous substances

(1) The Director shall, after consulting the Council, establish safety and health requirements based on risk assessments, technical standards and medical opinion, for the safe handling and transportation of chemicals and other hazardous substances.

(2) An employer shall not require or permit his employee to engage in the manual handling or transportation of a load which by reason of its nature is likely to cause the employee to suffer bodily injury.

(3) Any person supplying, distributing, conveying or holding in chemicals or other toxic substances shall ensure that they are packaged, conveyed, handled and distributed in a safe manner so as not to cause any ill effect to any person or the immediate environment.

(4) At every workplace where chemicals or other toxic substances are manipulated, the employer shall develop a suitable system for the safe collection, recycling and disposal of chemical wastes, obsolete chemicals and empty containers of chemicals to avoid the risks to safety, health of employees and to the environment.

84. Material safety data sheets

(1) Every manufacturer, importer, supplier or distributor of chemicals shall make available to employers, material safety data sheets for chemicals and other hazardous substances, containing detailed essential information regarding their identity, supplier, classification of hazards, safety precautions and emergency procedures.

(2) A supplier of hazardous chemicals shall ensure that revised labels and chemical safety data sheets are prepared and provided to an employer whenever new and relevant safety and health information becomes available.

(3) Every employer shall ensure the availability at the workplace of material safety data sheets for all chemicals and other hazardous substances in use at the premises of the employer, containing detailed essential information regarding the identity, suppliers' classification of hazards, safety precautions and emergency procedures.

85. Labelling and marking

(1) Every supplier of hazardous substances, whether as manufacturer, importer or distributor of hazardous substances shall ensure that containers filled with hazardous substances, are—

(a) plainly painted, marked or labelled in a distinctive and uniform manner, with a legible, durable label indicating the hazard, and which is easily understood by persons employed; and

(b) accompanied with instructions for the safe handling of the contents; and

(c) the measures to be taken in case of spillage or accidental exposure to persons employed.

(2) For purposes of this section, labelling in accordance with the United Nations Labelling system shall be adequate.

(3) Every supplier of chemical substances which have not been classified in accordance with subsection (1) shall identify the chemicals they supply and assess the properties of those chemicals on the basis of a search of available information in order to determine whether they are hazardous chemicals.

(4) Every employer shall ensure that all chemicals used at a workplace are labelled or marked and that chemical safety data sheets have been provided and are made available to employees and their representatives.

(5) It shall be the duty of an employer who has received chemicals for which chemical safety data sheets have not been provided or which have not been labelled or marked as required, to obtain the relevant information from the supplier or from other reasonably available sources.

(6) An employer who uses chemicals referred to in subsection (5) without the said information commits an offence.

(7) Every employer shall ensure that only chemicals, which are classified in accordance with section 86 or identified and assessed to determine whether they are hazardous on the basis of a search of information available, and labelled or marked in accordance with subsection 86(1)(b) are used, and that any necessary precautions are taken when they are used.

(8) Every employer shall maintain a record of hazardous chemicals used at the workplace, cross-referenced to the appropriate chemical safety data sheets, which record shall be accessible to all employees concerned and their representatives.

86. Classification of hazardous chemicals and substances

Every supplier of chemicals whether as a manufacturer, importer or distributor shall ensure that all chemicals are—

(a) classified according to their characteristics, properties such as toxicity, chemical, physical, corrosive and irritant, allergenic, sensitising, carcinogenic, teratogenic and mutagenic, effects as well as their effect on the reproductive systems;

(b) labelled in a way so as to be easily understood by employees and other users, and so as to provide essential information regarding their classifications, the hazards they present and the safety precautions to be observed; and

(c) marked so as to indicate their identity.

87. Corrosive substances

Where corrosive substances are used and there is danger of an employee being splashed thereby, the employer shall provide for use by an employee in case of an emergency—

(a) adequate and readily accessible means for drenching with water or any other appropriate substance; and

(b) sufficient and suitable means of flushing the eyes, whole body or any other exposed part of the body,

conveniently situated and marked, the location of which is made known to all employees.

88. Exposure limits to hazardous substances

The Cabinet Secretary may, after consultation with the Council, establish or adopt exposure limits on hazardous substances in the workplace so as to protect persons employed.

89. Control of air pollution, noise and vibration

(1) In every workplace in which, in connexion with any process carried on, there is given off any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom, and in particular, where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent it entering the air of any workroom and the dust, fumes or impurity shall not be allowed to enter into the atmosphere without undergoing appropriate treatment to prevent air pollution or other ill-effect to life and property.

(2) No stationary internal combustion engine shall be used unless provision is made for conducting the exhaust gases from the engine into the open air and the exhaust gases shall not be allowed to enter the atmosphere without undergoing appropriate treatment so as to prevent air pollution, or other ill effect to life and property.

(3) In every workplace where the level of sound energy or vibration emitted can result in hearing impairment or be harmful to health or otherwise dangerous, all practicable measures shall be taken by the employer to ensure the elimination or control of such sound energy for purposes of protecting any person who may be exposed.

(4) In every workplace where any vibration, which is transmitted to the human body through solid structures, is harmful to health or otherwise dangerous, all practicable control, preventive and protective measures shall be taken by the employer to secure the safety and health of any such person who may be exposed to the vibration.

90. Redeployment on medical advice

Where work involves exposure to air pollution, noise or vibration or any other adverse working conditions, a medical practitioner may recommend redeployment if he is of the opinion that the employee cannot continue working in that environment.

Part X – WELFARE GENERAL PROVISIONS

91. Supply of drinking water

(1) Every occupier shall provide and maintain an adequate supply of wholesome drinking water at suitable points conveniently accessible to all persons employed.

(2) A supply of drinking water which is not laid on shall be contained in suitable vessels, and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination, and a drinking water supply whether laid on or not shall, in such cases as an occupational safety and health officer may direct, be clearly indicated as the occupational safety and health officer may require.

92. Washing facilities

(1) Every occupier shall provide and maintain for the use of persons employed, adequate and suitable facilities for washing, which shall be conveniently accessible and shall be kept in a clean and orderly condition.

(2) The Director may, by certificate in writing, except from any of the requirements of subsection (1) any workplace where, by reason of the difficulty of obtaining an adequate supply of water or the fact that accommodation is restricted and adequate and suitable washing facilities are otherwise

conveniently available, or such other special circumstances as may be specified in the certificate, the application of the requirement would in his opinion be unreasonable.

(3) The Cabinet Secretary may by rules prescribe, either generally or with respect to any class or description of workplace or with respect to the persons employed in any process, standard adequate and suitable washing facilities.

93. Accommodation for clothing

Every occupier shall provide and maintain for the use of a person employed, adequate and suitable accommodation for clothing not worn during working hours.

94. Facilities for sitting

Every occupier shall provide and maintain, for the use of a person employed whose work is done standing, suitable facilities for sitting, sufficient to enable the person employed to take advantage of any opportunities for resting which may occur in the course of his employment.

95. First-aid

Every occupier shall provide and maintain so as to be readily accessible, a first-aid box or cupboard of the prescribed standard.

Part XI – HEALTH, SAFETY AND WELFARE SPECIAL PROVISIONS

96. Permit to work

(1) An employer shall issue a permit to work to any employee, likely to be exposed to hazardous work processes or hazardous working environment, including such work processes as the maintenance and repair of boilers, dock work, confined spaces, and the maintenance of machinery and equipment, electrical energy installations, indicating the necessary precautions to be taken.

(2) In this section "permit to work" means a written notice, which sets out the work to be done, the hazards involved and the precautions to be taken before the work commences in order to secure the safety and health of the employee.

97. Work processes which may harm persons below eighteen years

Employer shall not allow a person below the apparent age of eighteen years to be employed at any workplace or work process, or perform work, which by its nature or the circumstances, in which it is carried out, is likely to harm the person's safety or health.

98. Supervision of apprentices and indentured learners

No person undergoing apprenticeship or indentured learnership shall be allowed to attend to any machinery, equipment, tools, plant or process unless adequate supervision and protection against hazardous work conditions and environment is provided and maintained.

99. Training and supervision of inexperienced workers

(1) No person shall be employed at any machine or in any process, being a machine or process liable to cause ill health or bodily injury, unless he has been fully instructed as to the dangers likely to arise in connection therewith and the precautions to be observed, and—

(a) has received sufficient training in work at the machine or in the process; or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

(2) The training referred to in subsection (1) shall be carried out on—

(a) recruitment;

(b) transfer or change of job;

(c) the introduction of new work equipment or materials or change in equipment or materials; and

(d) introduction of new technology.

(3) The training shall be—

(a) adapted to take into account new changed risks; and

(b) repeated periodically.

(4) Every occupier shall ensure that an employee from other undertakings or establishments including contractors engaged in work at the occupier's workplace receive appropriate instructions regarding safety and health risks including emergency procedures at the workplace during their activities at the workplace and action to be taken in case of an emergency.

(5) The training referred to in subsection (4) shall not be at the expense of the employee and shall take place during working hours.

(6) Any person who fails to comply with any of the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

100. Meals in certain dangerous trades

No person shall be permitted to partake of food or drink where a poisonous or otherwise injurious substance is used so as to give rise to any dust or fume.

101. Protective clothing and appliances

(1) Every employer shall provide and maintain for the use of employees in any workplace where employees are employed in any process involving exposure to wet or to any injurious or offensive substance, adequate, effective and suitable protective clothing and appliances, including, where necessary, suitable gloves, footwear, goggles and head coverings.

(2) The Director shall register safety consultants to assess the suitability and effectiveness of protective clothes and appliances.

102. Protection of eyes in certain processes

(1) Every employer shall provide suitable goggles or effective screens to protect the eyes of person employed engaged in any of the processes specified in the Eighth Schedule.

(2) Every employer shall ensure that where in any workplace electric arc welding is carried on, effective provision is made, by screening or otherwise, to prevent employees, other than employees engaged in the welding process, being exposed to the electric arc flash.

103. Medical surveillance

(1) Where the Cabinet Secretary is satisfied that—

(a) cases of illness have occurred which he has reason to believe may be due to the nature of the process or other conditions of work;

(b) by reason of changes in any process or in the substances used in any process or, by reason of the introduction of any new process or new substance for use in a process, there may be risk of injury to the health of a worker engaged in the process;

(c) there may be risk of injury to the health of workers from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries,

he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed.

(2) Regulations made under this section may require the medical surveillance to be carried out by persons registered by the Director, and may prescribe the qualifications and other conditions which are to be satisfied in order to be registered for the purpose of this section.

(3) Where the Cabinet Secretary is satisfied that any work involves a risk to the health of employees, he may make rules requiring—

(a) medical examination of the employees before they are employed, during their employment, and after the termination of their employment; and

(b) regular or individual examinations or surveys of health conditions from the point of view of industrial medicine and industrial hygiene.

(4) The costs of the examinations referred to in subsection (3) shall be paid by the employer.

(5) An employer shall ensure that the examination specified in this section shall take place without loss of earnings for the employees and if possible within normal working hours during their employment.

(6) An employee and former employee of the employer under this section shall be under an obligation to undergo examination in accordance with the regulations.

(7) A person who contravenes the provisions of this section or any regulation made thereunder commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

Part XII – SPECIAL APPLICATIONS

104. Premises where part of building is separate workplace

Where a part of a building is let off as a separate workplace, the provisions of this Act shall apply to that part of the building used for the purposes of the workplace.

105. Premises in which steam boilers are used

(1) The provisions of this Act shall apply to any premises (not being premises forming part of a workplace) in which a steam boiler is used, as if the premises were a workplace and as if the person having the actual use or occupation of the premises were the occupier of a workplace.

(2) If at any time a steam boiler is to be used in any premises, not being premises forming part of a workplace, the occupier shall, within one month after the date upon which the boiler is first used, send to the Director a written notice containing the particulars set out in the Ninth Schedule.

106. Premises in which hoists or lifts are used

(1) The provisions of this Act shall apply to any premises (not being premises forming part of a workplace) in which a hoist or a lift is used, as if the premises were a workplace and as if the person having the actual use or occupation of the premises were the occupier of a workplace.

(2) If at any time a hoist or a lift is to be used in any premises not being 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 Director a written notice of the address at which the hoist or lift is used.

107. Platforms erected over water

(1) Every occupier or owner of a vessel or platform erected over water or in water shall ensure that adequate measures have been taken to protect the safety and health of persons employed on any vessel or platform and shall at all times comply with the provisions of this Act.

(2) The provisions of subsection (1) shall apply to fishing vessels, training and diving operations and other works carried out in or on water, including works of engineering construction and similar operations.

Part XIII – OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

108. Offences

(1) In the event of any contravention in connexion with or in relation to a workplace of the provisions of this Act, the occupier, or if the contravention is one in respect of which the owner is by or under this Act made responsible, the owner of the workplace shall, subject to this Act be guilty of an offence.

(2) In the event of a contravention by an employee of the provisions of this Act with respect to duties of employees or of a contravention by any person of any rule or order made under this Act, which expressly imposes any duty upon him, that employee shall be guilty of an offence and the occupier or owner, as the case may be, shall not be guilty of an offence by reason only of the contravention of the said provisions of this Act, or the contravention of the provision imposing the said duty, as the case may be, unless it is proved that he failed to take all reasonable steps to prevent the contravention; but this subsection shall not be taken as affecting any liability of the occupier or owner in respect of the same matter by virtue of some provision other than the provisions or provision aforesaid.

(3) If the occupier of a workplace avails himself of any special exception allowed by or under this Act and fails to comply with any of the conditions attached to the exception, he shall be deemed to have contravened the provisions of this Act.

(4) If any persons are employed in a workplace otherwise than in accordance with the provisions of this Act, there shall be deemed to be a separate contravention in respect of each person so employed.

(5) Where an offence under this Act is committed by a company, co-operative society or other body of persons and is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, Chairperson, manager, secretary or other officer of the company, co-operative society or other body of persons, he, as well as the company, co-operative society or other body of persons, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

109. General penalty

(1) Any person who commits an offence under this Act for which no express penalty is provided shall on conviction be liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

(2) Where the contravention in respect of which a person is convicted is continued after the conviction, shall that person subject to the provisions of section 110, be guilty of a further offence and liable in respect thereof to a fine not exceeding ten thousand shillings for each day on which the contravention is so continued.

110. Court may order cause of contravention to be remedied

(1) Where the occupier or owner of workplace is convicted of an offence under this Act, the court may, in addition to or instead of imposing any penalty, order him, 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), the occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of that time as originally specified or extended by subsequent order, the order is not complied with, the occupier or owner, as the case may be, shall be liable to a fine not exceeding ten thousand shillings for each day on which the non-compliance continues.

111. Penalty in case of death or injury

If any person is killed, or dies, suffers any bodily injury, in consequence of the occupier or owner of a workplace having contravened any provision of this Act, the occupier or owner of the workplace shall, without prejudice to any other penalty, be liable to a fine not exceeding one million shillings or, to imprisonment for a term not exceeding twelve months; and the whole or any part of the fine may be applied for the benefit of the injured person or his family or otherwise as the Cabinet Secretary may determine:

Provided that—

(i) in the case of injury to health, the occupier or owner shall not be liable to a penalty under this section unless the injury was caused directly by the contravention; and

(ii) the occupier or owner shall not be liable to a penalty under this section if a charge against him under this Act in respect of the act or default by which the death or injury was caused has been heard and dismissed before the death or injury occurred.

112. Forgery, false declaration, etc.

A person who—

(a) forges or counterfeits any certificate required by, under or for the purposes of this Act;

(b) gives or signs any certificate knowing it to be false in any material particular;

(c) knowingly utters or makes use of, any forged, counterfeited or false certificate;

(d) knowingly utters or makes use of, as applying to any person, any certificate which does not so apply;

(e) personates any person named in any certificate;

(f) falsely pretends to be an occupational safety and health officer;

(g) wilfully connives at any counterfeiting, giving, signing, uttering, making use, personating or pretending as aforesaid;

(h) wilfully makes a false entry in any register, notice, certificate or document required by, under or for the purposes of this Act to be kept, served or sent;

(i) wilfully makes or signs a false declaration required by, under or for the purposes of this Act;

(j) knowingly makes use of any such false entry or declaration,

commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

113. Penalty on persons committing offence for which occupier is liable

Where an act or default for which an occupier or owner of a workplace is liable under this Act is in fact the act or default of an agent, servant, worker or other person, that agent, servant, worker or other person shall be deemed to have committed the offence and shall be liable to the like penalty as if he were the occupier or owner, as the case may be.

114. Exemption of occupier or owner on conviction of actual offender

(1) Where the occupier or owner of a workplace is charged with an offence under this Act, he shall be entitled, upon a charge duly made by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person whom he charges as the actual offender (whether or not that person is his agent or servant) brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or owner of the workplace proves to the satisfaction of the court—

(a) that he has used all due diligence to enforce the execution of this Act and of any relevant order or rule made hereunder;

(b) that the said other person committed the offence in question without his knowledge, connivance or wilful default,

that other person shall be convicted of the offence and the occupier or owner shall not be guilty of the offence, and the person so convicted shall, in the discretion of the court, also be liable to pay any costs incidental to the proceedings.

(2) The prosecution shall have the right in any case to cross-examine the occupier or owner if he gives evidence and any witnesses called by him in support of his charge, and to call rebutting evidence.

(3) When it is made to appear to the satisfaction of an occupational safety and health officer at the time of discovering an offence—

(a) that the occupier or owner, as the case may be of the workplace has used all due diligence to enforce the execution of this Act;

(b) the person who committed the offence; and

(c) that it has been committed without the knowledge, connivance or wilful default of the occupier or owner and in contravention of his orders,

the occupational safety and health officer shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or owner of the workplace.

115. Proceedings against persons other than occupiers or owners

Where, under this Act, any person is substituted for the occupier or owner of a workplace with respect to any provisions of this Act, any order, summons, notice or proceeding which, for the purpose of any of those provisions, is, by or under this Act, required or authorized to be served on or taken in relation to the occupier or owner is hereby required or authorized, as the case may be, to be served on or taken in relation to that person.

116. 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.

(2) In any proceedings under this Act, it shall be sufficient in the charge or information 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 the charge or information is not the occupier of the workplace, shall lie upon the person alleging such fact.

(3) Where any offence is committed under this Act by reason of a failure to carry out an examination, make 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 carried out or the report made, or the other thing done, as the case may be.

117. Special provisions as to evidence

(1) If a person is found in a workplace at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed in the workplace:

Provided that this subsection shall not apply to a workplace in which the workers are members of the same family dwelling there.

(2) 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 the occupier of a workplace or on his behalf shall, as against him, be admissible as evidence of the facts therein stated, and the fact that any entry so required with respect to the observance of any provision of this Act has not been made shall be admissible as evidence that that provision has not been observed.

118. Service of documents

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

(a) on any person, by delivering it to him, or by leaving it at, or sending it by registered post to, his residence or place of business;

(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, the office of the firm;

(c) on the owner or occupier of a workplace, including any such owner or occupier being a company to which the Companies Act (Cap. 486) applies or a co-operative society to which the Companies Act (Cap. 486) applies or a co-operative society to which the Co-operative Societies Act (Cap. 490) applies, in any such manner as aforesaid, or by delivering it, or a true copy thereof, to the manager, foreman or other responsible person at the workplace.

(2) A document referred to in subsection (1) may be addressed, for the purpose of the service thereof on the occupier of a workplace, to "the occupier" at the proper postal address of the workplace, without further name or description.

(3) The provisions of subsections (1) and (2) shall apply, with the necessary modifications, to documents required or authorized under this Act to be sent to any person, firm, owner or occupier, and to the sending, addressing and delivery of such documents.

119. Power to modify agreements

If by reason of an agreement between the owner and the occupier of premises, the whole or any part of which has been let as a workplace, the owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him to comply with the provisions of this Act or in order to conform with any standard or requirement imposed by or under this Act, the owner or occupier may apply to a judge in chambers for the terms of the agreement to be set aside or modified, and the judge, after hearing the parties and any witnesses whom they may desire to call, may make such an order setting aside or modifying the terms of the agreement as he considers just and equitable in the circumstances of the case.

120. Power to apportion expenses

Where in any premises the whole or any part of which has been let as a workplace, any structural or other alterations are required in order to comply with the provisions of this Act, or in order to conform with any standard or requirement imposed by or under this Act, and the owner or occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply to a judge in chambers for the expenses of the alterations to be apportioned between them; and the judge, after hearing the parties and any witnesses who they may desire to call, may make such an order concerning the expenses or their apportionment as he considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or, in the alternative, determine the lease.

Part XIV – MISCELLANEOUS PROVISIONS

121. Posting of abstract of Act, rules and notices

(1) There shall be kept posted in a prominent position in every workplace—

(a) the prescribed abstract of this Act;

(b) a notice of the address of the Director and of the area occupational safety and health officer;

(c) printed copies of any rules made under any provision of this Act which are for the time being in force in the workplace, or the prescribed abstract of such rules;

(d) notices stating the danger or ill heath that may be caused and precautionary measures to be observed in areas where persons are exposed to injurious or offensive substances; and

(e) any other notice and document required by this Act to be posted in the workplace.

(2) The documents referred to in subsection (1) shall be in English and in such other vernacular languages as an occupational safety and health officer may direct, and if a form has been prescribed for any document, it shall be posted in that form.

(3) The occupier of a workplace who contravenes the provisions of this section commits an offence.

122. General register

(1) There shall be kept in every workplace a register, in the prescribed form, called the general register, and there shall be entered in or attached to that register—

(a) the certificate of registration of the workplace;

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

(c) the prescribed particulars as to the washing, whitewashing, colourwashing, painting or vanishing of the workplace;

(d) the prescribed particulars as to every accident and case of occupational disease occurring in the workplace of which notice is required to be sent to a occupational safety and health officer under the provisions of any law for the time being in force;

(e) all reports and particulars required by any provision of this Act to be entered in or kept with the general register; and

(f) such other matters as may be prescribed.

(2) The occupier of a workplace shall send to an occupational safety and health officer such extracts from the general register as the occupational safety and health officer may from time to time require for the purpose of the execution of his duties under this Act.

(3) The occupier of a workplace who contravenes the provisions of this section commits an offence.

123. Preservation of registers and records

(1) The general register and every other register or record kept in pursuance of this Act shall be preserved and shall be kept available for inspection by any occupational safety and health officer for at least three 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.

(2) The Cabinet Secretary may, after consultation with the Council, make regulations prescribing—

(a) the records to be kept; and

(b) the returns to be rendered by employers and the person or persons to whom such returns shall be rendered.

124. Return of persons employed

(1) The occupier of every workplace, to which any of the provisions of this Act apply, shall, if so required, by an order published in the *Gazette*, send to the Director, at such intervals and on or before such days as may be specified in the order, a correct return showing, with respect to such day or days, or such period, as may be specified in the order, the number of persons employed in the workplace and giving such particulars as to such other matters as the order may require.

(2) The Director may, for the purpose of facilitating the rendering of returns by occupiers under this section, arrange for the consolidation of those returns with any other relevant returns required from occupiers under any other law for the time being in force.

125. Approval of plans of workplace premises

(1) No building shall be erected or converted for use as a workplace and no structural alteration and no extension shall be made to any existing workplace except in accordance with plans showing details of the proposed construction, conversion, alteration or extension, approved by the Director.

(2) Upon receipt of a written application supported by such particulars as may be prescribed for the approval of any plan described in subsection (1), the Director shall—

(a) if he is satisfied that the plans provide for suitable premises for use of a workplace of the type proposed, issue a certificate of approval for such plans; or

(b) if he is not satisfied, refuse to issue a certificate of approval and shall state in writing to the applicant the reasons for such refusal.

126. Occupational Safety and Health Fund

(1) Notwithstanding section 26 of the Government Financial Management Act, No. 5 of 2004 (repealed), Parliament shall appropriate moneys necessary for the establishment of a fund to be known as the Occupational Safety and Health Fund.

(2) The purpose of the Fund shall be to—

(a) secure the development and co-ordination of a sound and effective occupational safety and health system;

(b) implement an effective system for the prevention of occupational accidents and diseases, ill health and damage to property at workplaces;

(c) carry out research on occupational safety and health, including research on factors leading to occupational accidents and diseases;

(d) develop and disseminate information materials, such as safety posters and pamphlets, newsletters and guidance notes on occupational safety and health including the holding of safety exhibitions, and awareness creation opportunities among employers, employees and the general public; and

(e) promote occupational safety and health through the holding of annual safety award events for outstanding performance in safety and health among the enterprises and persons employed.

(3) There shall be paid into the Fund in respect of every workplace registered under this Act, a levy charged at the prescribed rates known as the occupational health and safety levy.

(4) The Cabinet Secretary may make an occupational health and safety levy order for purposes of giving effect to proposals submitted by the Council and approved by the Cabinet Secretary, and the order may provide for the amendment of a previous occupational health and safety levy order.

(5) The Cabinet Secretary may, on the advice of the Council and in consultation with the National Treasury, make rules governing the efficient management and administration of the Occupational Safety and Health Fund.

(6) The Director shall, in consultation with the Council, administer the Occupational Safety and Health Fund.

127. Safety and health regulations

(1) The Cabinet Secretary may, in consultation with the Council, make regulations under this Act to—

(a) prohibit exposure to hazard; or

(b) prescribe ways to prevent or minimise exposure to hazard.

(2) The Cabinet Secretary may, after consultation with the Council, make regulations—

(a) which are necessary or expedient in the interest of the safety and health of persons at work, or the safety and health of persons who use plant or machinery, or the protection of persons other than persons at work against risks to safety and health arising from or connected with the activities of persons at work, including regulations to provide for—

(i) the planning, layout, construction, use, alteration, repair, maintenance or demolition of buildings;

(ii) the control, the storage and use of explosives or highly flammable or otherwise dangerous substances;

(iii) the design, manufacture, construction, installation, operation, use, handling, alteration, repair, maintenance or conveyance of plant, machinery or health and safety equipment;

(iv) the training, safety equipment or facilities to be provided by employers, the persons to whom and the circumstances in which they are to be provided and the application thereof;

(v) the safety and health measures to be taken by employers or users;

(vi) the occupational hygiene measures to be taken by employers or users;

(vii) any matter regarding the biological monitoring or medical surveillance of employees;

(viii) the production, processing, use, handling, storage or transport of, and the exposure of employees and other persons to, hazardous articles, substances or organisms or potentially hazardous articles, substances or organisms, including specific limits, thresholds or indices of or for such exposure;

(ix) the performance of work in hazardous or potentially hazardous conditions or circumstances;

(x) the measures to be taken to reduce the risk of fire breaking out in any workplace or of any such fire or smoke therefrom, spreading in any workplace;

(xi) standard safety signs;

(xii) the ergonomic requirements for various work situations and appliances;

(xiii) the emergency equipment and medicine to be made available by employers, the places where such equipment and medicine are to be held, the requirements with which such equipment and medicine shall comply, the inspection of such equipment and medicine, the application of first-aid and the qualifications which persons applying first-aid shall possess;

(xiv) the compilation by employers of safety and health directives in respect of a workplace, the matters to be dealt within such directives and the manner in which such directives shall be brought to the attention of employees and other persons at a workplace;

(xv) the registration of persons performing hazardous work or using or handling plant or machinery, the qualifications which the persons shall possess and the fees payable to the Director in respect of such registration;

(xvi) the accreditation, functions, duties and activities of approved inspection authorities;

(xvii) the consultations between an employer and employees on matters of health and safety;

(xviii) the provision of information by an employer or user to employees or the public on any matter to which this Act relates;

(xix) the conditions under which any employer is prohibited from permitting any person to partake of food or to smoke on or in any premises where a specified activity is carried out;

(xx) the conditions under which the manufacture of explosives and activities incidental thereto may take place;

(xxi) the fees payable under this Act.

(b) to provide for the preventive and protective measures for major hazard installations with view to protect employees and the public against the risk of major incidents;

(c) to establish committees for the purposes of this Act; and

(d) to provide for any other matter necessary or desirable for the effective carrying out of the provisions of this Act.

(3) Where the Cabinet Secretary is satisfied that any manufacture, machinery, plant, equipment, appliance, process or description of manual labour used in a workplace is of such a nature as to cause risk of bodily injury, or be offensive, to the workers or any class of workers, the Cabinet Secretary may, subject to the provisions of this Act, make such rules as are practicable to meet the necessity of the case.

(4) The rules made under subsection (3) may, without prejudice to the generality of the powers conferred by this section—

(a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connexion with any manufacture, machinery, plant, equipment, appliance, process or description of manual labour;

(b) prohibit, limit or control the use of any material or process; or

(c) apply to provisions relating to—

(i) arrangements for preparing, heating, and taking of meals;

(ii) ambulance and first-aid arrangements;

(iii) rest rooms;

(iv) arrangement for the supervision of workers; and

(v) lifting of excessive weights.

(5) Any rules or regulations made under this Act may be made for a limited period and may be made subject to such conditions as the Cabinet Secretary deems fit, and may contain such supplemental and consequential provisions necessary for giving effect to the rules or order.

128. Power to direct formal investigation of accidents and cases of disease

(1) The Cabinet Secretary may direct a formal investigation to be held into any accident occurring or case of disease contracted or suspected to have been contracted in a workplace, premises, place or location and of its causes and circumstances and the provisions of this section shall have effect with respect to such investigation.

(2) The Cabinet Secretary may appoint a tribunal of competent persons to carry out the investigation, and may appoint any person possessing legal or special knowledge to act as assessor to the investigation.

(3) The tribunal appointed under subsection (2) shall carry out the investigation in such manner and under such conditions as it may deem most effective for ascertaining the causes and circumstances of the accident or case of diseases, and for enabling the making of the report required by this section.

(4) The tribunal shall for the purpose of the investigation, have all the powers of a magistrate's court when trying information for offences under this Act, and all the powers of an occupational safety and health officer under this Act, and, in addition, power—

(a) to enter and inspect any place or building the entry or inspection of which appears to the tribunal requisite for the purposes of the investigation;

(b) by summons signed by the Chairperson to the tribunal, to require the attendance of all such persons as the tribunal deems fit and to require answers or returns to such inquiries as it thinks fit to make;

(c) to require the production of all books, papers and documents which it considers important for the purpose of the investigation; and

(d) to administer oaths and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

(5) Persons attending as witnesses before the tribunal shall be paid such expenses as would be paid to witnesses attending before a magistrate's court and in the case of a dispute as to the amount to be allowed, the dispute shall be referred to the registrar or a deputy registrar of the High Court who, on request signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

(6) The tribunal shall make a report to the Cabinet Secretary stating the causes and circumstances of the accident or the occurrence of a disease and add any observations, which the tribunal deems fit to make.

(7) Any person who, without reasonable excuse, proof whereof shall lie on him, either fails, after having had the expenses, if any to which he is entitled tendered to him, to comply with any summons, order or requisition of the tribunal, or prevents or impedes the tribunal in the execution of its duty, commits an offence and shall on conviction be liable to a fine not exceeding fifty

thousand shillings, and in the case of a failure to comply with a requisition for making any return or producing any documents, if the failure in respect of which he was convicted is continued after the conviction, he shall (subject to the provisions of section 115) be guilty of a further offence and liable to a fine not exceeding one thousand shillings for every day on which the failure is continued.

(8) The Cabinet Secretary may cause the report of the tribunal to be made public at such time and in such manner as the Cabinet Secretary deems fit.

129. Repeal and savings

(1) Subject to the provisions of subsection (2), the Factories and Other Places of Work Act is repealed.

(2) Notwithstanding the provisions of subsection (1)—

(a) anything done under the provisions of the Factories and Other Places of Work Act (Repealed) or by the Cabinet Secretary under the provisions of the Factories and Other Places of Work Act (Repealed) before the commencement of this Act shall be deemed to have been done under the provisions of this Act;

(b) any subsidiary legislation issued before the commencement of this Act shall, as long as it is not inconsistent with this Act remain in force until repealed or revoked by subsidiary legislation under the provisions of this Act and shall, for all purposes be deemed to have been made under this Act.

(3) In the event of any conflict or inconsistency between the provisions of this Act and that of any other written law relating to occupational safety and health, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of such other written law shall, to the extent of the conflict or inconsistency, be construed as superseded.

FIRST SCHEDULE [s. 21(8)]

DANGEROUS OCCURRENCES

1. Bursting of a revolving vessel, wheel, grindstone or grinding heel moved by mechanical power.
2. Collapse or a failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or goods, or any part thereof (except the breakage of chain or rope-slings), or the overturning of crane.
3. Explosion or fire causing damage to the structure of the room or place in which workers are employed or to any machine or plant contained therein, and resulting in the complete suspension of ordinary work in such room or place or stoppage of machinery or plant for not less than five hours, where such explosion or fire is due to the ignition of dust, gas or vapour.
4. Electrical short circuit or failure of electrical machinery plant or apparatus, attended by explosion or fire are causing structural damage is thereto and involving its stoppage or disuse for not less than five hours.
5. Explosion or fire affecting any room in which persons are employed and causing complete suspension of ordinary work therein for not less than twenty-four hours.
6. Explosion of a receiver or container used for the storage at a pressure greater than atmospheric pressure of any gas or gases (including air) or any liquid or solid resulting from the compression of gas.
7. The explosion of any steam boiler, failure of fire tubes of steam tubes or furnace collapse or fusible plug.
8. Accidental or otherwise, escape or leakage of dangerous or toxic gases, fumes, liquid or substances injurious to health.

SECOND SCHEDULE [s. 22(4)]

PRESCRIBED OCCUPATIONAL DISEASES

Description of disease or injury	*Nature of occupation*
Poison by:	Any occupation involving:
1. Lead or a compound of lead.	The use or handling of or, exposure to the fumes, dust or vapour of, lead or a compound of lead.
2. Manganese or a compound of manganese.	The use or handling of, or exposure to the fumes, dust or the vapour of manganese opr a compound, or a substance containing manganese.
3. Phosphorus or phosphine or poising due to the anti-cholinesterase action of organic phosphorus compounds.	The use or handling of, or exposure to fumes, dust or the vapour of manganese or a compound , or a substance containing manganese.
4. Arsenic or compound arsenic.	The use or handling of, or expsure to the fumes, dust or vapour of, phosphorus or a substance containing for phosphorus.
5. Mercury or a compound of mercury.	The use of, or handling of, or exposure to the fumes, dust or vapour of, carbon bisulphide, or substance training cub on bisulphide.
6. Carbon bisulphide.	The use or handling of, or exposure to the fumes, dust or vapour of, carbon bisulphide, or substance training cub on bisulphide.
7. Benzene or a homologue of benzene.	The use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homogues.
8. A nitro- or amino- or chloro-derivative of benzene or a homologue of benzene or poisoning by nitro-chloro-benzene.	The use or handling of, or exposure to the fumes of, or vapour containing dinitrophenol or a homologue or substituted dinitrophenols or the salts of such substences.
9. Dinitrophenol or a homologue or by substituted dinitrophenols or by the salts of such substances.	The use or handling of, or exposure to the fumes of, or vapour containing dinitrophenol or a homologue or substitude dinitrophenols or the salts of such substances.
10. Tetrachloroethane.	The use or handling of, or exposure to the fumes of, or vapour containing, tetrachloroethane.

11.	Tri-cresylphosphate.	The use or handling of, or exposure to the fumes of, or vapour containing tricresylphosphate.
12.	Tri-phenylphosphate.	The use or handling of, or exposure to the fumes of, or vapour containing tricresylphosphate.
13.	Diethylene dioxide (dioxan).	The use or handling of, or exposure to the fumes of, or vapour containing diethylene dioxide (dioxan).
14.	Methyl bromide.	The use or handling of, exposure to the fumes of, or vapour containing chlorinated naphthalene.
15.	Chlorinated naphthalene.	The use or handling of, or exposure to the fumes of, or vapour containing chlorinated naphthalene.
16.	Nickel carbonyl.	Exposure to nickel carbonyl gas.
17.	Nitrous fumes.	The use or handling of nitric acid or exposure to nitrous fumes.
18.	*Gonioma kamassi* (African Boxwood).	The manipulation g*onioma kamassi* or any process in or incodental to te manufacturer of articles therefrom.
19.	Anthrax.	The handling of wool, hair, bristles, hides or skins or other animal products or residues, or contact with animals infected with anthrax.
20.	Glanders.	Contact with equine animals or their carcasses.
21.	(a) Infection by leptospira icterohaemorrhagieae;	Work in places which are, or are
	(b) infection by leptospira canilola.	Work at dog kennels or the care of handling of dogs.
22.	(a) Dystroply of the cornea (including a ulceration of the corneal surface);	The use of, handling of, or exposure to arsenic, tar, white, bitumen, mineral oil (including kerosene), soot or any compound product (including quinone or hydroquinone), or residue of any of these substances.
	(b) localised new growth of the skin, papillomatuos or keratotic;	

	(c) squamous-celled carcinoma of the skin due in any case to arsenic, tar, pitch, bitumen, mineral oil (including quinone or hydro-quinone or residue of any of these substances).	
23.	Inflammation, ulceration or malignant disease of the skin or subcutaneous tissue or of the bones or blood dyscrasia, or cataract due to electomagnetic radiations (other than radiant heat), or ionizing particles.	Exposure to electromagnetic radiations other than radiant heat or to ionising particles.
24.	Heat cataract.	Frequent or prolonged exposure to rays from molten or red-hot materials.
25.	Decompression sickness.	Subjection to compressed or rarefield air.
26.	Cramps of the hand or fore arm due to repetitive movements.	Prolonged periods of handwriting, typing or other repetitive movement of the fingers or arm..
27.	Subcutaneous cellulitis of the hand (beat hand).	Manual labour causing severe or prolonged friction or pressure on the hand.
28.	Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (beat knee).	Manual labour causing severe external friction or pressure at or about the knee.
29.	Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (beat elbow).	Manual labour or frequent or repeated movement of the hands or wrist.
30.	Traumatic inflammation of the tendon of the hand or forearm or the associated tendon sheaths.	Manual labour, or frequent or repeated movement of the hand or wrist.
31.	Poisoning by beryllium or a compound of beryllium.	The use or handling of, or exposure to the fumes, dust or vapor of beryllium or compound beryllium, a substance containing beryllium.
32.	Primary neoplasm of the epithelial lining of the urinary bladder.	(a) Working the building in which any of the following substances is produced for commercial purposes. (i) Alpha-naphthylamine or beta-naphthylamine

		(ii) Diphenyl substituted by at least one nitro- or primary amino- group or by at least one nitro- of a primary amino- group. (iii) Any of the substances mentioned in subparagraph (ii) the father of ring substituted by halogeno methyl or methoxy groups, but not by other groups. (iv) The salts of any of the substances mentioned In subparagraphs (i) to (iii). (v) Auramine or magnet. (b) The use or handling of any of the substances mentioned in subparagraphs (i) to (iv) of paragraph (a), or work in a process in which any such substance is used or handled or the liberated. The maintenance or cleaning of any plant or machinery used in any such process as is mentioned in paragraph (b), or the cleaning of clothing used in any such building as is mentioned in paragraph (a) if such clothing is cleaned within the works of which the building forms part or in the laundry maintained and used solely in connection with such works.
33.	Poisoning by cadmium.	Exposure to cadmium fumes.
34.	Inflammation or ulceration of the mucous membranes of the upper respiratory passages or mouth produced by dust, liquid or vapour.	Exposure to dust, liquid or vapour.
35.	Non- infective dermatitis of external origin (including chrome ulceration of the skin but excluding dermatitis due to ionising particles or electromagnetic radiations other than radiant heat).	Exposure to dust, liquid, or vapour or any other external agent capable of irritating the skin (including friction or heat but excluding ionizing particles or electromagnetic radiations other than radiant heat).
36.	pulmonary disease due to the inhalation of the dust of mouldy hay of the mouldy vegetable produce and characterized by symptoms and signs attributable to a reaction in the peripheral part of the broncho-pulmonary system, and give rise to a defect in the does exchange (farmer's lung).	Exposure to the dust of mouldy hay or other mouldy vegetable produce by reason of employment— (a) in agriculture, horticulture or forestry; (b) loading or unloading or handling in storage such hay or other vegetable matter; or handling bagasse.

37.	Primary malignant neoplasm of the mesothelium (diffuse mesothelioma) of the plaura or of the peritoneum.	(a) the working or handling of asbestos or any admixture of asbestos; (b) The manufacture or repair of asbestosis tiles or other articles containing or composed of asbestos; (c) The cleaning of any machinery or plant used in any of the foregoing operations and of any chambers, fixtures and appliances for the collection of asbestos dust; Substantial exposure to the dust arising from any of the foregoing operations.
38.	Adeno-carcinoma of the nasal cavity or associated air sinuses.	Attendance for work in or about a building where wooden furniture is manufactured.
39.	Pneumoconiosis (including silicosis and asbestosis), byssinosis.	the mining, quarrying and dressing of sandstone, slate and granite; any occupation involving exposure to asbestos dust; iron and steel foundry work; steel dressing; work in the pottery industry; the manufacture of refractory products such as silica bricks; any dusty process which results in pneumoconiosis.
40.	Various carcinoma.	Exposure to various chemicals or substances which are known to be carcinogenic.

THIRD SCHEDULE [s. 28(6)]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. Tenure of office

(1) A member of the Council, other than an *ex officio* member shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, on such terms as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term of three years.

(2) The members of the Council shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

2. Vacation of office

A member of the Council, other than an *ex officio* member, may—

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary if the member—

(i) has been absent from three consecutive meetings of the Council without the permission of the Chairperson;

(ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Council; or

(vii) fails to comply with the provisions of this Act relating to the safety and health of workers at an enterprise where he holds interest as owner or occupier.

3. Meetings

(1) The Council shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson or any three other members of the Council may call a special meeting at any time where it is deemed expedient for the transaction of the business of the Council, by giving not less than seven days' written notice to the members.

(3) The members of the Council shall, at the first meeting of the Council, elect from amongst their number, a vice-Chairperson.

(4) Unless three-quarters of the total members of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.

(5) The quorum for the conduct of the business of the Council shall be eleven members excluding the Director.

(6) The Chairperson shall preside at every meeting of the Council at which he is present but, in his absence, the vice-Chairperson shall preside and, in his absence, the members present shall elect one of their numbers who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of votes of the members present and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) Subject to subparagraph (5), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

(9) A resolution in writing or such resolutions consisting of several documents in like form, each signed by the members of the Council, shall be as valid and effectual as if it had been passed at a meeting of the Council duly convened and held.

(10) Subject to the provisions of this Schedule, the Council may determine its own procedures and the procedure for any committee of the Council and for the attendance of any other persons at its meetings and may make standing orders, *inter alia*, in respect of the procedure for meetings and other business of the Council.

4. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Council may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

5. Minutes

The Council shall cause minutes of all resolutions and proceedings of meetings of the Council to be entered in books kept for that purpose.

FOURTH SCHEDULE [ss. 44]

PARTICULARS TO BE SUBMITTED BY OCCUPIER, OR INTENDING OCCUPIER OF A WORKPLACE

1. The name of the workplace.
2. Address and location of the workplace.
3. Name of the occupier or intending occupier of the workplace.
4. The name and address of the owner of the premises or building.
5. The address to which communications relating to the workplace may be sent.
6. Nature of the work carried on, or proposed to be carried on, in the workplace.
7. The name of the manager of the workplace for the purposes of this Act.
8. The list of chemical substances used or intended to be used in the workplace, the chemical and trade name including chemical safety data sheet for each chemical substance.
9. Whether mechanical power is used or intended to be used and, if so, its nature.
10. Whether power presses are in use or intended to be used and if so, the following particulars in respect of each power press—
    (a) type, description and distinctive number;
    (b) country and year of manufacture.
11. Whether passenger or goods lifts are used or intended to be used and, if so, the following particulars in respect of each such lift—
    (a) type, description and distinctive number;
    (b) country and year of manufacture;
    (c) date of the last thorough examination and name of the person by whom the examination was made;
    (d) maximum permissible working load.
12. Whether steam boilers are used or intended to be used and, if so, the following particulars in respect of each such boiler—
    (a) type, description and distinctive number;
    (b) country and year of manufacture;
    (c) date of the last thorough examination and name of the person by whom the examination was made;
    (d) maximum permissible working pressure in pounds per square inch.

13. (a) Total number of persons employed, or intended to be employed, in the workplace;

(b) Where persons are employed, or intended to be employed, in shifts, the maximum number employed, or intended to be employed, at any one time.

FIFTH SCHEDULE [s. 44]

CERTIFICATE OF REGISTRATION OF A WORKPLACE

No. of Certificate .....

Date of Issue .....

I hereby certify that the workplace named below has been duly registered in pursuance of section ..... of the Occupational Safety and Health Act.

Name of occupier .....

Address and location of workplace .....

Nature of work .....

.....

Director, Occupational Safety and Health Services

SIXTH SCHEDULE [s. 66]

REGISTER OF CHAINS, ROPES, LIFTING TACKLE AND LIFTING MACHINES

1. Name of the occupier of the workplace.
2. Address and location of the workplace.
3. Distinguishing number of mark and description sufficient to identify the chain, rope, lifting tackle or lifting machine.
4. Date when the chain, rope, lifting tackle, or lifting machine, was first taken into use in the workplace.
5. Date of each examination made under section 64(1)(d) or section 65(2), as the case may be, and the name of the person who carried out the examination.
6. Particulars of any defect found at any examination and affecting the safe working load, and of the steps taken to remedy the defect.
7. Date and number of the certificate relating to any test and examination carried out under section 64(1)(e) or section 65(3), as the case may be, together with the name and address of the person who issued the certificate.
8. In the case of chains and lifting tackles (except rope slings), dates of annealing or other heat treatment.

SEVENTH SCHEDULE [s. 67(10)]

THE MANNER OF PREPARING A STEAM BOILER FOR EXAMINATION WHEN IT IS COLD

1. In addition to the steps required to be taken under paragraph (2) of this Schedule, the preparation of the interior and exterior of a boiler (including, where fitted, and economizer and super heater) for examination when cold under section 67 shall consist of all or any of one or more of the following steps—

   (a) the opening out, cleaning and descaling of the boiler, including the removal of doors from mudholes, manholes and handholes;

   (b) the removal of firebars;

   (c) in the case of shells type boilers, the dismantling of firebridges (if made of brick) and all furnace protective brickwork;

   (d) the opening out for cleaning and inspection of fittings including the pressure parts of automatic controls; and

   (e) in the case of water tube boilers, the removal of drum internal fittings, and if the person making the examination may require other preparations to be made.

2. All brickwork, baffles and coverings shall be removed for the purpose of the thorough examination to the extent required by the person carrying out the examination but in any case these parts shall be removed to the extent necessary to expose headers, seams and shells of drums at least—

   (a) once in every six years in the case of a steam boiler situated in the open or exposed to the weather of damp; and

   (b) once in every ten years in the case of every other steam boiler.

EIGHTH SCHEDULE [s. 102]

PROCESSES REQUIRING PROVISION OF SUITABLE GOGGLES OR EFFECTIVE SCREENS

1. Dry grinding of metals, or articles of metal, applied by hand to a revolving wheel or disc driven by mechanical power.

2. Turning (external or internal) of non-ferrous metals, or of cast iron, or of articles of such metals or such 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 oxyacetylene 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 remove of metal;

   (b) cutting out or cutting off (not including drilling or punching back) of cold rivets or bolts from boilers or other plant or from ships;

   (c) chipping or scaling of boilers or ships' plates;

   (d) breaking or dressing of stone, concrete or slag.

NINTH SCHEDULE [s. 105]

PARTICULARS TO BE SUBMITTED BY OCCUPIER OF PREMISES (OTHER THAN A WORKPLACE) IN WHICH A STEAM BOILER IS IN USE

1. Name of the occupier of the premises.
2. Address and location of the premises.
3. Nature of the work carried on in the premises.
4. The following particulars in respect of each steam boiler in use—
   (a) type, description and distinctive number;
   (b) country and year of manufacture;
   (c) date of the last thorough examination and name of the person by who the examination was made;
   (d) maximum permissible working pressure in pounds per square inch.