

## **OCCUPATIONAL HEALTH AND SAFETY ACT, 2007**

It is an Act of Parliament to provide for the safety, health and welfare of workers and all persons lawfully present at workplaces.

### **DUTIES OF OCCUPIERS**

- 1) Every occupier shall ensure the safety, health and welfare at work of all persons working in his workplace.
  - a) The provision and maintenance of plant and systems and procedures of work that are safe and without risks to health.
  - b) 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.
  - e) The provision and maintenance of means of access to and outlet from it that are safe and without such risks to health
  - f) 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
  - g) Informing all persons employed of any risks from new technologies and imminent danger
  - h) Ensuring that every person employed participates in the application and review of safety and health measures.
- 2) Every occupier shall carry out appropriate risk assessments in relation to the safety and health of persons employed.
- 3) The occupier shall adopt preventive and protective measures to ensure that under all conditions of their intended use, all chemicals, machinery, equipment, tools and process under the control of the occupier are safe and without risk to health and comply with the requirements of safety and health provisions.

### **Duty to prepare a safety and health policy statement**

It is the duty of every occupier to:-

- a) Prepare 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
- b) To bring the statement and any revision of it to the notice of all of his employees.

### **Safety and health committees**

Every occupier shall establish a safety and health committee at the workplace if:-

- There are twenty or more persons employed at the workplace; or
- The Director directs the establishment of such a committee at any other workplace.

### **Safety and health audits**

- 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.
- The audit report shall be preserved and be kept available for inspection by the occupational safety and health officer.

### **Duties of self-employed persons**

- 1) Every self-employed person shall:-
  - 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.
  - Report to the Director:-
    - Any situation which he has reason to believe would present imminent danger or hazard and which he cannot correct, and
    - Any incident or injury that arises in the course of or in connection with his work, as required under this Act.

### **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) Cooperate 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;
- 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;

- 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;
- Report to the supervisor, any situation which he has reason to believe would present a hazard and which he cannot correct;
- Report to his supervisor any accident or injury that arises in the course of or in connection with his work; and

## **ADMINISTRATION**

- 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 may, after consultation with the technical advisory committee, issue a certificate of approval to a competent person to carry out—
  - Examination and testing of plants and equipment;
  - Medical examination of employees;
  - Medical surveillance on the health of persons employed;
  - Safety and health audits of workplaces; or

A certificate of approval issued under this section shall be renewed annually and at any time revoke a certificate of approval issued.

The Director:-

- Shall promote education and training in occupational safety and health;
- Shall collect and disseminate information on occupational safety and health;
- Shall promote occupational safety and health in all workplaces and in the community to encourage a safety and health culture in workplaces;
- May conduct training for enterprises, self-employed persons, individuals and occupational safety and health officers;
- May after consultation with the technical advisory committee, approve in writing training institutions providing occupational safety and health training.

### **Technical advisory committee**

The Director may from time to time constitute a technical advisory committee. A technical advisory committee shall consist of the Director as chairman and not less than five other members from relevant occupational safety and health disciplines.

### **Functions of the technical advisory committee**

A technical advisory committee shall:-

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

- (b) Approve training syllabus to be used by organizations, institutions, firms or consultants offering occupational safety and health courses;
- (c) Ensure professional ethics of all approved persons and institutions;
- (d) 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;
- (e) Promote education and training in occupational safety and health;
- (f) Collect and disseminate information on occupational safety and health

### **Powers of an occupational safety and health officer**

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 a workplace where he has reasonable cause to believe that any person is employed therein which he has reasonable cause to believe that explosive, highly inflammable or any other hazardous materials are stored or used
- 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 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;

## **REGISTRATION OF WORKPLACES**

### **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.

### **Registration of workplaces**

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.

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.

Any person who, without having been issued with a certificate of registration, 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.

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

## **HEALTH – GENERAL PROVISIONS**

### **Cleanliness**

Every workplace shall be kept in a clean state, and free from effluent arising from any drain, sanitary convenience or nuisance, and, without prejudice to the generality:-

- 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
- The floor of every workroom shall be cleaned at least once in every week
- 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 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.

### **Overcrowding**

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.

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 with minimum permissible is ten cubic metres per person:

### **Ventilation**

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.

### **Lighting**

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.

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:

### **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.

### **Sanitary conveniences**

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.

## **MACHINERY SAFETY**

### **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.

### **Prime movers**

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

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

### **Transmission machinery**

Every part of transmission machinery shall be securely fenced. 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.

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.

### **Hand held and portable power tools and equipment**

Every employer shall:-

- 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;
- 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.

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.

### **Hoists and lifts**

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

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.

### **Chains, ropes and lifting tackle.**

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:-

- No chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;
- No chain, rope or lifting tackle shall be used for any load exceeding the safe working load
- 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;
- 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.

### **Cranes and other lifting machines**

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, and adequate strength and free from patent defect, and shall be properly maintained.

All parts and gear 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.

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 have been thoroughly examined, by a person approved by the Director.

### **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

### **Steam boilers**

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

Every steam boiler, whether separate or one of a range shall:-



(a) Have attached to it:-

- 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;
- 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;
- 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;

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:

### **Refrigeration plants**

Every refrigeration plant capable of being entered by an employee shall:-

- Have all control valves situated outside the cold storage room; and
- Have all doors of cold storage room capable of being opened easily and quickly from the inside and outside.

## **SAFETY-GENERAL PROVISIONS**

### **Ladders**

Every ladder to be issued in 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.

No ladder shall be used unless:-

- 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;
- It stands on a firm and level footing except in the case of suspended ladder;
- It is secured where necessary to prevent undue swaying or sagging;
- It is equally and properly supported on each stile or side;

### **Ergonomics at the workplace**

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.

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.

### **Fire prevention**

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

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.

## **CHEMICAL SAFETY**

### **The handling, transportation and disposal of chemicals and other hazardous substances**

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.

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.

### **Material safety data sheets (MSDS)**

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, and classification of hazards, safety precautions and emergency procedures.

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.

## **Labeling and marking.**

Every supplier of hazardous substances, whether as manufacturer, importer or distributor of hazardous substances shall ensure that containers filled with hazardous substances, are:-

- 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
- Accompanied with instructions for the safe handling of the contents and
- The measures to be taken in case of spillage or accidental exposure to persons employed.

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.

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.

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.

## **WELFARE-GENERAL PROVISIONS**

### **Supply of drinking water**

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

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.

### **Washing facilities**

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.

### **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.

### **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.

### **First-aid**

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

## **HEALTH, SAFETY AND WELFARE-SPECIAL PROVISIONS**

### **Permit to work.**

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.

'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.

### **Training and supervision of inexperienced workers**

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:-

- Has received sufficient training in work at the machine or in the process; or
- Is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

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.

### **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

### **Protective clothing and appliances**

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.

### **Protection of eyes in certain processes**

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.

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.