

BILL No. 30 of 1997

Saturday 4th October, 1997

PARLIAMENT OFFICE,
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Georgetown,
Guyana.

3rd October, 1997.

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 30 OF 1997

OCCUPATIONAL SAFETY AND HEALTH BILL 1997

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A BILL

AN ACT to provide for the registration and regulation of industrial establishments, for occupational safety and health of persons at work, and for purposes connected therewith or material thereto.

Short title and commencement.

1. This Act may be cited as the Occupational Safety and Health Act 1997 and shall come into operation on such date as the Minister may by order appoint and different dates may be appointed for different provisions of this Act.

PART I
PRELIMINARY

Interpretation.

2.(1) In this Act -

- (a) "Advisory Council" means the National Advisory Council on Occupational Safety and Health established under section 10;
- (b) "agricultural undertaking" means an undertaking or part thereof engaged in cultivation, animal husbandry including livestock production and care, forestry, horticulture, the primary processing of agricultural products or any other form of agricultural activity;
- (c) "air-receiver" means -
 - (i) 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;

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

(iii) any fixed or portable vessel (not being part of a spraying pistol) used for the purpose of spraying by means of compressed air, any paint, varnish, lacquer or similar material; or

(iv) any vessel in which liquid is stored and from which it is forced by compressed air;

- (d) "appointed day" means the date on which this Act comes into operation;
- (e) "article" means an object which is formed to a specific shape or design during its manufacture or which in its natural shape, and whose use in that form is dependent in whole or in part on its shape or design;
- (f) "Authority" means the Occupational Safety and Health Authority established under section 12;
- (g) "biological agent" means bacteria, viruses, fungi, rickettsiac, chlamydia, and parasites;

- (h) "bodily injury" includes injury to health;
- (i) "chemical" means a chemical element and compound, and a mixture thereof, whether natural or synthetic;
- (j) "child" means a person under the age of fifteen;
- (k) "Commissioner" means the occupational safety and health commissioner appointed under section 21;
- (l) "committee" means a joint workplace safety and health committee established under section 23;
- (m) "competent person" means a person who-
 - (i) is qualified because of knowledge, training and experience to organize the work and its performance;
 - (ii) is familiar with this Act and the regulations that apply to the work; and
 - (iii) has knowledge of any potential or actual danger to safety or health in the workplace;
- (n) "construction" includes-
 - (i) building, including excavation and the construction, structural alteration, renovation; repair maintenance (including cleaning and painting) and demolition of all types of buildings or structures;

- (ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies; and
- (iii) the erection and dismantling of buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;
- (o) "construction site" means any site at which any of the processes or operations described in the definition of the term "construction" are carried on;
- (p) "critical substance" means a chemical, physical agent or biological agent, or combination thereof prescribed as a critical substance to which the exposure of a worker is prohibited, regulated, restricted, limited or control;

- (q) "domestic worker" means a person employed to do household work in another person's home or dwelling;
- (r) "driving-belt" includes any driving strap, rope or chain;
- (s) "employer" means-
- (i) any person who employs one or more workers;
 - (ii) attorney, agent, foreman, manager, supervisor, clerk and any other person engaged in the hiring or superintending the labour or service of any worker;
 - (iii) as the context requires, the operator, principal contractor, contractor or subcontractor.
- (t) "existing industrial establishment" means any industrial establishment which is in operation on the appointed day;
- (u) "factory" has the same meaning as in sections 2 and 3 of the Factories Act as amended by section 88 (4), and includes any agricultural undertaking, construction site or logging operation which is outside the scope of the definition of factory in that Act;

- (v) "fume" includes gas, vapour or
or smoke;
- (w) "hazardous biological agent" means any biological agent at
an excessive level for which relevant information
exists to indicate that the biological agent at this level
is hazardous;
- (x) "hazardous chemical" means any chemical which has been
classified as hazardous in accordance with Article 6
of the International Labour Organisation Convention
(No. 170) or for which relevant information exists to
indicate that the chemical is hazardous;
- (y) "hazardous physical agent" means any physical agent
at excessive level for which relevant
information exists to indicate that the physical agent
at this level is hazardous;
- (z) "hazardous substance" means a substance or mixture of
substances which by virtue of chemical, physical or
toxicological properties either singly or in
combination, constitutes a hazard;

(2)(a) "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or any part thereof by a worker for wages in his own home or other premises occupied primarily as living accommodation;

(b) "International Labour Organisation Convention (No. 170)"

means the International Labour Organisation Convention concerning safety in the use of chemicals at work adopted in Geneva on 25th day of June 1990;

(c) "industrial establishment" means a factory, shop, office, or workplace and any, building or other structure or premises appertaining thereto but does not include premises occupied for residential purposes only ;

(d) "inspector " means any person who is designated as an inspector under section 12;

(e) " logging operation " means the operation of felling or trimming trees for commercial or industrial purposes or for the clearing of land, and includes the measuring, storing, transporting or floating of logs, the maintenance of haul roads, scarification, the carrying out of planned burns and the practice of silviculture;

(f) "major hazard installation" means an installation which produces, processes, handles, uses, disposes of or stores, either permanently or temporarily, one or more hazardous substances or categories

of substances in quantities which exceed the
threshold quantity as prescribed;

- (g) "machinery" includes -
- (i) stationary or portable boilers in an industrial establishment;
 - (ii) steam or other engines in an industrial establishment;
 - (iii) all apparatus or appliances for generating, developing, receiving or transforming, or for measuring or testing the volume, voltage, pressure or frequency of, or for distributing or applying any mechanical, electric or natural power to any industrial or manufacturing process in an industrial establishment;
 - (iv) furnaces and fuel or storage tanks situate within, opening into or attached to the structure of, or directly connected with, any industrial establishment;
 - (v) railway locomotives, tractors, road rollers or other type of road locomotive;
 - (vi) marine boilers, steam receivers and air receivers on any ship or vessel which is not a foreign ship;
 - (vii) vats, tanks, cooling or drying devices used for the storage of, or otherwise in connection with, the product of any mechanical process, and situate within or attached to the

premises within which such process is carried on;

(viii) any plant, or apparatus used to generate, purify, mix, heat, or cool any fume, gas or vapour; and

(ix) any driving belt ;

(h) "medical inspector" means any registered practitioner who is designated as a medical inspector under section 15;

(i) "mine means,

(i) any surface or underground site where the following activities, in particular, take place -

(a) exploration of mineral resources, that involves the mechanical disturbance of the ground;

(b) the extraction of mineral resources;

(c) preparation, including crushing, grinding, concentration or washing of the extracted material;

(ii) any machinery, equipment, appliance, plant, building, or civil engineering structure used in conjunction with any activity referred to in subparagraph (i) ;

(j) "new industrial establishment" means any industrial establishment which first commences to operate at sometime after the appointed day;

- (k) "occupational disease" means -
- (i) a disease prescribed as an occupational disease under section 75(2) (C) (e) ;
 - (ii) a work -related disease;
- (l) "occupier" means the person who controls the industrial establishment and the work that is done there;
- (m) "owner" means the person for the time being receiving the rackrent of the premises used as an industrial establishment, whether on his own account or as agent, trustee, receiver, mortgagee in possession for any other person, or who would so receive the rent if the premises were let at a rackrent;
- (n) "physical agent" includes electromagnetic radiation, ionising radiation, noise, vibration, heat, cold, humidity and pressure;
- (o) "power" means electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal energy;
- (p) "prescribed" means prescribed by this Act or a regulation made under this Act;
- (q) "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;

- (r) "sanitary conveniences" includes urinals, water-closets, or closets, privies and any similar conveniences :

(s) "safety and health representative" means a safety and health representative selected under section 22

- (t) "ship", "vessel" and "harbour" have the same meanings as are respectively assigned to them in any law relating to shipping;

- (u) "shop" means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale;

- (v) "supervisor" means a person who has charge of a work place or authority over a worker;

- (w) "technical examiner" means a person who is designated as a technical examiner under section 20;

- (x) "threshold quantity" means for a given hazardous substance or category of substances that quantity, as prescribed, which if exceeded identifies a major hazard installation;

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(y) "trade union" has the same meaning assigned to it in the

Trade Unions Act;

(z) "woman" means a woman who has attained the age of 18 years;

3(a) "worker" means any employed person and an apprentice;

(b) "workplace" means any industrial establishment or place or premises where a worker needs to be or go by reason of his or her work and which is under the direct or indirect control of the employer.

(c) "work-related disease" means a condition that results from exposure of a worker in a workplace to a chemical, physical agent, ^{or} biological agent to the extent that the normal physiological mechanisms of such worker are affected and his health ^{is} impaired thereby;

(d) "young person" means a person who has ceased to be a child and has not attained the age of eighteen years.

(4) Premises shall not be excluded from the definition of an industrial establishment by reason only that they are open air premises.

(5) Any premises belonging to or in occupation of the state or any municipal or other public or local government authority shall not be excluded from the definition of an industrial establishment.

(6) A person who works in an industrial establishment whether for wages or not, either in a process or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall save as is otherwise provided by this Act, be deemed to be employed therein for the purposes of this Act and any proceedings thereunder.

(7) A young person who works in an industrial establishment, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the industrial establishment for the purposes of this Act or of any proceedings thereunder.

(8) For the purposes of this Act and the regulations, a ship being manufactured or under repair shall be deemed to be a construction site.

(9) An owner does not become an employer at a construction site by virtue only of the fact that the owner has engaged an architect, professional engineer or other person solely to oversee quality control at a construction site.

(10) Except where otherwise expressly provided, the provisions of this Act shall be in addition to and not in substitution for or in diminution of the provisions of any other written law.

(11) A reference to regulations in this Act, unless the context otherwise requires, means regulations made under this Act.

Application
of Act to
industrial
establish-
ment, etc.

3. (1) Except where otherwise expressly provided, this Act shall apply to every industrial establishment, and to all owners and occupiers thereof and employers and workers therein.

(2) Subject to section 73, this Act shall apply to industrial establishments belonging to or occupied by the State, but in case of any public emergency, the Minister may be order for the duration of the period specified in the order, exempt from this Act any industrial establishment-

(a) belonging to or occupied by the State;

(b) in which work is being carried out on behalf of the State; or

(c) whose activities are vital to the national interest.

Work in private residence.

4. (1) This Act shall not apply to work performed by the owner or occupant of a private residence in or about a private residence or the lands and appurtenances used in connection therewith.

(2) This Act shall apply to a domestic worker and to an owner or occupant of a private residence with respect to the work performed by the domestic worker for the owner or occupant of a private residence.

Self-employed person and person engaged in homework.

5. (1) Sections 13, 16, 20, 30, 32, 33, 34, 35, 47, 48(1)(c),(e),(f) and (g), 56, 59(1), 60, 61, 62, 63, 64, 65, 69, 70, 77, 78, 79, 80, 81 and 82 and the regulations in relation thereto, shall apply mutatis mutandis to a self-employed person.

(2) Sections 13, 30-38, 46, 47, 49, 56-65, 67, 70, 71, 74, 78 and 83 and the regulations in relation to fire escape, first aid, safety and health and welfare shall apply mutatis mutandis to workers engaged in homework and employers of those workers.

**PART II
REGISTRATION OF INDUSTRIAL ESTABLISHMENTS**

**Register
of industrial
establish-
ments and
particulars
thereof.**

6.(1) Every industrial establishment and the particulars thereof which are specified in section 7 shall be registered under this Act with the Authority.

(2) Until compliance with the provisions of section 7(2), every registration done under any other law before the appointed day in respect of any existing industrial establishment, shall, be deemed to have been done under this Act and shall continue in effect under this Act for the purpose of

the application of the provisions of this Act to such industrial establishment.

(3) The department responsible for registering any existing industrial establishment referred to in subsection (2) shall notify the Authority of the particulars of every such registration.

(4) The Authority shall keep a register of industrial establishments registered under section 7(1) and (2) and shall cause to be entered therein the particulars from time to time registered in respect of such industrial establishments.

Application
for registra-
tion of indu-
strial estab-
ment.

7. (1) Every person who is the owner or employer of an industrial establishment shall -

- (a) within thirty days after the appointed day, in the case of an existing industrial establishment not already registered under any other law;
- (b) within thirty days after the industrial establishment commences to operate as such, in the case of a new industrial establishment; and
- (c) within thirty days after the anniversary of every certificate of registration or continuation of registration or renewal of registration granted under subsection (4),

make application to the Authority in the prescribed form for the registration of such industrial establishment.

(2) Every person who is the owner or occupier of an existing industrial establishment referred to section 6(2) shall within one year after the appointed day, make application to the Authority for a certificate of continuation of registration under this Act

(3) Every application under subsection (1) or (2) shall contain the following particulars -

- (a) the names and addresses of the owner and of the occupier of the industrial establishment to which the application relates;
- (b) the address and location of the industrial establishment;
- (c) the nature and the object of the process carried on in the industrial establishment;
- (d) the number of employees employed in the industrial establishment-
 - (i) normally, and
 - (ii) at the date of application;
- (e) the hazardous chemicals and hazardous physical agents present in the industrial establishment, as listed in the hazardous materials inventory required to be prepared under section 61(1) of this Act; and
- (f) whether the industrial establishment or mine is a major hazard installation.

(4) The Authority shall, upon the receipt of an application under subsection (1) or (2) containing the particulars specified in subsection (3), forthwith cause to be registered or continued to be registered as the case may be, the industrial establishment, and the particulars thereof, to which the application relates, and the Authority shall issue to the applicant a certificate of registration or continuation of registration or renewal of registration, as the case may be of the industrial establishment in the prescribed form.

(5) Every application for the registration or continuation of registration or renewal of registration shall be made on the prescribed form and accompanied by the prescribed fee.

(6) Any person who intends to erect or cause to be erected a new industrial establishment or any new building appurtenant to any existing industrial establishment shall, before the erection of such industrial establishment or building is commenced, give notice in writing to the Authority of his intention as aforesaid, and shall furnish the Authority with such, drawings, plans or specifications as are specified in section 52.

Application for registration of change in particulars registered.

8. Where any change takes place in any of the particulars registered under section 7 (4), the owner or occupier for the time being of the industrial establishment to which the particulars relate shall, within thirty days after the date upon which the change takes place, make application to the Authority for the registration of the change, and the Authority shall amend the register of

industrial establishment accordingly and issue to the applicant a verification of registration of the change as aforesaid.

Correction of register.

9. (1) The Authority may take such steps as considered necessary to ascertain whether -

(a) any industrial establishment registered under this Act is being operated as an industrial establishment; or

(b) any change has taken place in the particulars registered under section 7 in respect of any industrial establishment.

(2) Where the Authority ascertains that any industrial establishment registered as aforesaid is not being operated as an industrial establishment, or that a change has taken place in the particulars registered as aforesaid in respect of any industrial establishment, the Authority shall remove the name of the industrial establishment from the register or shall make such amendment to the register as the circumstances may require.

PART III**ADMINISTRATION****(a) Governmental**

Establishment and functions of National Advisory Council on Occupational Safety and Health.

10.(1) There is hereby established an Advisory Council to be known as the Advisory Council on Occupational Safety and Health consisting of not less than twelve nor more than twenty members appointed by the Minister from among persons nominated for such appointment by bodies or persons representative of the concerns referred to in subsection (2).

(2) The members of the Advisory Council shall be appointed for such term as the Minister determines and shall be representative of management, labour and technical or professional bodies or persons which or who are concerned with and have knowledge of occupational safety, welfare and health.

(3) The Minister shall designate a chairman and a vice-chairman of the Advisory Council from among the members appointed.

(4) The Minister may fill any vacancy that occurs in the membership of the Advisory Council.

(5) The remuneration and expenses of the members of the Advisory Council shall be determined by the Minister and shall be paid out of the moneys appropriated therefor by the National Assembly.

(6) The Advisory Council, with the approval of the Minister, may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum, and the conduct of meetings.

- (7) The functions of the Advisory Council are -
- (a) to advise the Minister on matters relating to occupational safety and health or arising out of the operation of this Act which may be brought to its attention or be referred to it, including the formulation of a national policy on occupational safety and health;
 - (b) to make recommendations to the Minister relating to programmes of the Authority in occupational safety and health including enforcement and the implementation of a national policy on occupational safety and health; and
 - (c) to promote public awareness of occupational safety and health.

(8) The Advisory Council shall file with the Minister not later than the 1st day of June in each year an annual report upon the affairs of the Advisory Council for the previous year.

(9) The Minister shall submit the report to the National Assembly if it is in session or, if not, at the next ensuing session.

Committees.

11.(1) The Advisory Council may establish committees to assist it in the performance of its functions and may appoint such persons whether or not they are members of the Advisory Council as it may

deem fit to be members of any such committees:

Provided that the Chairman of every such committee shall be a member of the Council.

(2) Any person appointed under subsection (1) who is not a member of the Council or a public officer may be paid such remuneration and expenses as may be determined by the Minister.

Establishment
of Occupational
Safety and
Health
Authority
and
designation
of inspectors.

12.(1) There is hereby established an authority to be known as the Occupational Safety and Health Authority comprising such officers as may be designated by the Minister by notice published in the Gazette, and where no such authority is established, the Authority shall be the Chief Occupational Safety and Health Officer.

(2) Subject to subsection (2), all industrial establishments and all machinery shall be inspected by the Authority, or, subject to the directions of the Authority, by an inspector.

(3) The Minister may make regulations for the inspection of industrial establishments and machinery, or of some classes of industrial establishments or of certain kinds of machinery, by such persons as may be designated in such regulations.

(4) The Minister may, by notice published in the Gazette, designate fit and proper persons to be inspectors for the purposes of this Act.

(5) No person who is the occupier of any industrial establishment or is directly or indirectly interested therein or in any process or business carried on therein, or in a patent connected therewith, or is employed in or about such establishment shall be appointed an inspector or act as such.

Powers of
the Authority
and of an
inspector.

13.(1) The Authority, and every inspector, shall for the purposes of this Act have power-

- (a) whenever he has reasonable cause to believe that any person is employed in an industrial establishment, to enter, inspect and examine such industrial establishment and every part thereof at any hour of the day or night;
- (b) whenever he has reasonable cause to believe any place to be an industrial establishment, to enter, inspect and examine such place by day;
- (c) whenever he has reasonable cause to believe that explosive or highly inflammable materials are stored or used in any building of which an industrial establishment forms part, to enter, inspect and examine any part of such building by day;
- (d) to enter any ship or vessel in any dock or harbour or at any wharf, quay or stelling and make such inspection and examination as he may deem fit;

(e) 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;

(f) upon giving a receipt therefore, to remove any registers, certificates, notices and documents kept in pursuance of this Act for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, to promptly return the same to the person who produced or furnished them;

(g) to make such examination, inquiry or test as may be necessary to ascertain whether, in respect of any industrial establishment or the persons employed therein, or in respect of any prescribed occupation, the provisions of this Act and of the enactments for the time being in force relating to public health are being complied with;

(h) to conduct or take tests without unduly disturbing the workplace, of any equipment, machine, device, article, material, chemical, physical agent, or biological agent in or about a work place and for such purposes, to take and carry away such samples as may be necessary subject to the employer being notified of such samples taken and carried away;

(i) to require in writing an employer to cause any tests described in

paragraph (h) to be conducted or taken, at the expense of the employer, by a person possessing such special expert or professional knowledge or qualifications as specified by the inspector and to provide, at the expense of the employer a report or assessment by that person;

(j) in any inspection, examination, inquiry or test, to be accompanied and assisted by or take with him any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him and use any equipment or materials required for such purpose;

(k) to require any person whom he finds in an industrial establishment to give such information as it is in his power to give as to who is the occupier of the industrial establishment;

(l) 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 an industrial establishment or whom he has reasonable cause to believe to have been employed or to have been employed within the preceding two months in an industrial establishment or in respect of any prescribed occupation 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:

Provided however, that no person shall be required under this paragraph to answer any question, or to give any evidence, tending to incriminate himself;

(m) to require that any equipment, machine, device, article or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;

(n) to require in writing an employer to have equipment, machinery or device tested, at the expense of the employer, by a professional engineer and to provide, at the expense of the employer, a report bearing the seal and the signature of the professional engineer stating that the equipment, machinery or device is not likely to endanger a worker;

(o) to require in writing that any equipment, machinery or device not be used pending testing described in paragraph (n) ;

(p) to require in writing an owner or employer to provide, at the expense of the owner or employer, a report bearing the seal and signature of a professional engineer stating-

(i) the load limits of a floor, roof, part of building, structure

or temporary work;

(ii) that a floor, roof, part of a building, structure or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be paid to it: or

(iii) that a floor, roof, part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under any building code or law;

(q) to require in writing an owner of a mine or part thereof to provide, at the owner's expense, a report in writing bearing the seal and the signature of a professional engineer stating that the ground stability of, the mining methods and the support or rock reinforcement used in the mine or part thereof is such that a worker is not likely to be endangered;

(r) to require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of such person a report or evaluation made by a person or organisation having special, expert or professional knowledge or qualifications as are specified by the inspector of any process,

chemical, physical agent, or biological agent or a combination of such a chemical and agents present, used or intended for use in a workplace and the manner of use, including-

- (i) the ingredients thereof and their common or generic name or names;
 - (ii) the composition and property thereof;
 - (iii) the toxicological effect thereof;
 - (iv) the effect of exposure thereto whether by contact, inhalation or ingestion;
 - (v) the protective measures used or to be used in respect thereof;
 - (vi) the emergency measures used or to be used to deal with exposure in respect thereof; and
 - (vii) the effect of the use, transport and disposal thereof;
- (s) to require the production of any materials concerning the content, frequency and manner of instruction of any training programme and inspect, examine and copy the materials and attend any such programme ;
- (t) where the inspector is a registered medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his duties under this Act;

(u) whenever he has reasonable cause to believe that there may be any serious obstruction in the execution of his powers, duties and functions under paragraphs (a), (b), (c) or (d), to take a member of the police force or the rural constabulary with him into the industrial establishment, building, ship or vessel, as the case may be;

(v) to exercise such other powers, duties and functions as may be necessary to carry this Act into full effect.

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

Certificate of appointment of Inspector.

14.(1) Every Inspector appointed under section 12(3) shall be furnished with a prescribed certificate of his appointment.

(2) When visiting an industrial establishment or place to which any of the provisions of this Act apply, he shall, if required so to do, produce the said certificate to the occupier or manager of the industrial establishment or place.

Appointment of medical inspectors.

15.(1) The Minister may, by notice published in the Gazette, designate a sufficient number of registered medical practitioners to be medical inspectors for any of the purposes of this Act.

(2) No medical practitioner who is the occupier of an industrial establishment, or is directly or indirectly interested therein, or in any process or business carried on therein, or in a patent connected therewith, shall act as medical inspector for that industrial establishment:

Provided that the Minister may authorise a registered medical practitioner who is employed by the occupier of an industrial establishment in connection with the medical supervision of persons employed in the industrial establishment but is not otherwise interested in the industrial establishment, to act as medical inspector for such industrial establishment for the purpose of examining and certifying the fitness of young persons.

(3) Where there is no medical inspector for an industrial establishment, the Government Medical Officer for the medical district in which the industrial establishment is situate shall be the medical inspector for that industrial establishment.

Powers and duties of medical inspector.

16.(1) The medical inspector for an industrial establishment shall have power at all reasonable times to inspect the general register of that industrial establishment.

(2) It shall be the duty of a medical inspector to investigate and report -

(a) upon any case of death or injury caused by exposure in an industrial establishment to fumes or other noxious substances, or due to any other special cause specified in instructions of the Minister as requiring investigation;

(b) upon any case of death or injury which the Authority in pursuance of any general or special instructions of the Minister may refer to him for that purpose; and

(c) upon any case of disease of which he receives notice under this Act.

(3) The medical inspector, for the purpose of an investigation under this section shall have all the powers of an inspector under this Act, and , in addition thereto, the power to enter any room in a building to which the person killed, injured or affected has been removed.

(4) Regulations may be made under this Act regulating-

(a) the duties of medical inspectors;and

(b) any special inquiry, examination or investigation held or performed by medical inspectors in pursuance of instructions or directions of the Minister.

Power of
inspector
to require
certificate
of
fitness
for work.

17.(1) Where the Authority or an inspector is of an opinion that the employment of any young person in an industrial establishment, or in any particular process or kind of work in an industrial establishment, is prejudicial to the health of the young person or to the health of other persons, he may, anything contained in a certificate (previously obtained) of fitness of the young person for employment to the contrary notwithstanding, serve notice in writing on the occupier of the industrial establishment requiring that the employment of that young person in the industrial establishment or in the process or kind of work as the case may be, be discontinued after the period named therein, being not less than one or more than seven days after the service of the notice.

(2) No occupier of an industrial establishment shall, after the period named in the notice under subsection (1), employ the young person to whom the notice relates contrary to requirements set out in the said notice, unless the medical inspector for the industrial establishment has, after the service of the notice, personally examined the young person and certified that he is fit for employment in the industrial establishment or in the process or kind of work, as the case may be.

Fees of
medical
inspectors.

18.(1) The fees to be paid to medical inspectors for carrying out their duties under this Act shall, in so far as they relate to any examination or certificate with respect to the fitness of a young person for employment in an industrial establishment or to any examination or medical supervision of persons employed in an industrial establishment carried out in pursuance of regulations made under this

Act, be paid by the occupier of that industrial establishment and in any other case shall be defrayed as an expense of carrying this Act into effect.

(2) Such fees shall, subject to any agreement made between the medical inspector and the occupier of an industrial establishment in respect of the fees payable by the occupier be of such amount as may from time to time be prescribed.

Periodical report of medical inspector to the Authority.

19. Every medical inspector shall in each year make at the prescribed time a report in the prescribed form to the Authority as to the examinations made other duties performed by him in pursuance of this Act.

Appointment of technical examiners.

20.(1) The Minister may, by notice published in the Gazette, designate persons who by virtue of training and experience are duly and properly qualified to examine equipment, drawings, plans, or specifications of any workplace, to be technical examiners for the purposes of carrying out such examination or other duty under this Act or as prescribed.

(2) The Minister may by regulations prescribe the fees to be paid to technical examiners for any examination or the duty carried out by them under this Act or as prescribed.

Appointment of Occupational Safety and Health Commissioner.

21.(1) The Minister may appoint an Occupational Safety and Health Commissioner who shall carry out the duties and exercise the powers of the Commissioner under this Act.

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(2) The Minister or, where any direction or reference is made to the Commissioner, the Commissioner, shall in relation to procedural matters, have all the powers of an arbitration tribunal to which the provisions of the Labour (Arbitration Procedure) Regulations apply and the provisions of those Regulations shall, mutatis mutandis apply to any appeal, claim, rebuttal, complaint, or order filed with the Minister or Authority, or directed or referred by the Minister or Authority to the Commissioner, under this Act.

(3) The Commissioner appointed under subsection (1) shall be paid such remuneration and expenses as the Minister determines.

(b) Non-Governmental

Safety and health representatives and their functions and powers.

22.(1) At a construction site or other workplace where no committee is required under section 23 and where the number of workers regularly exceeds five, the employer shall cause the workers to select at least one safety and health representative from among the workers at the workplace who do not exercise managerial functions.

(2) If no safety and health representative is required under subsection (1) and no committee is required under section 23 for a workplace, the Minister may,

by order, require an employer to cause the workers to select one or more safety and health representatives from among the workers at the workplace or part thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representatives.

(3) Every order made under subsection (2) may contain directions as the Minister considers advisable concerning the carrying out of the functions of a safety and health representative.

(4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in section 23(5).

(5) The selection of a safety and health representative shall be made by those workers who do not exercise managerial functions and who will be represented by the safety and health representative in the workplace, or the part or parts thereof, as the case may be.

(6) Where there is a trade union or trade unions representing the workers referred to in subsection (5), the selection of a safety and health representative may be delegated by a majority of such workers to the trade union or trade unions.

(7) Unless otherwise required by the regulations or by an order by an inspector, a safety and health representative shall inspect the physical conditions of the workplace at least once a month.

(8) If it is not practical to inspect the workplace at least once a month, the safety and health representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

(9) The inspection required by subsection (8) shall be undertaken in accordance with a schedule agreed upon by the employer and the safety and health representative.

(10) The employer and workers shall provide a safety and health representative with such information and assistance as such representative may require for the purpose of carrying out an inspection of the workplace.

(11) A safety and health representative shall have power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

(12) A safety and health representative has the power -

- (a) to obtain information from the employer concerning the conducting or taking of tests of any equipment, machine, device, article, material, chemical, physical agent or biological agent in or about a workplace for the purpose of occupational safety and health;

(b) to be consulted about, and be present at the beginning of, testing referred to in paragraph (a) conducted in or about the workplace if the representative believes his presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid; and

(c) to obtain information from the employer respecting -

- (i) the identification of potential or existing hazards of materials, processes or equipment; and
- (ii) safety and health experience and work practices and standards in similar or other industries of which the employer has knowledge.

(13) An employer who receives written recommendations from a safety and health representative shall respond in writing within twenty-one days.

(14) A response of an employer under subsection (13) shall contain a timetable for implementing the recommendations the employer agrees with and give reasons why the employer disagrees with any recommendations that the employer does not accept.

(15) Where a person is killed or critically injured at a workplace from any cause, the safety and health representative may, subject to section 69 (2), inspect the place where the accident occurred and any machine, device or article, and shall report his findings in writing to the employer and the Authority.

(16) A safety and health representative is entitled to take such time from work as is necessary to carry out his duties under subsection (7) and (15) and the time so spent shall be deemed to be work time for which the representative shall be paid by his employer at the representative's regular or premium rate as may be proper.

(17) A safety and health representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the employer and the workers, has in addition to his functions and the powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a safety and health representative by this section.

(18) A safety and health representative shall maintain and keep a record of the exercise of his functions and powers conferred upon him by this section and shall make the same available for examination by an inspector.

Joint
workplace
safety and
health
committee.

23.(1) A joint workplace safety and health committee is required-

- (a) at a workplace at which twenty or more workers are regularly employed;
- (b) at a workplace with respect to which an order to an employer is in effect under section 59; or
- (c) at a workplace other than a construction site where fewer

than twenty workers are regularly employed, with respect to which a regulation concerning critical substances applies.

(2) Subject to subsection (3), this section does not apply-

(a) to an employer at a construction site at which work is expected to last less than three months; or

(b) to a prescribed employer or workplace or class of employers or workplaces.

(3) Despite subsections (1) and (2), the Minister may, by order require an employer to establish and maintain one or more joint workplace safety and health committees for a workplace or a part thereof and may, in such order, provide for the composition, practice and procedure of any committee so established.

(4) The employer shall cause a joint workplace safety and health committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, programme or system in which the workers participate was, on the appointed day established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, programme or system provides benefits for the safety and health of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.

(5) In exercising the power conferred by subsection (3), the Minister shall

consider-

- (a) the nature of the work being done;
- (b) the request of an employer, a group of the workers or the trade union or trade unions representing the workers in a workplace;
- (c) the frequency of occupational disease or injury in the workplace or in the industry of which the employer is a part;
- (d) the existence of safety and health programmes and procedures in the workplace and the effectiveness thereof; and
- (e) such other matters as the Minister considers advisable.

(6) A committee shall consist of -

- (a) at least four persons, for a workplace where fewer than fifty workers are regularly employed; or
- (b) at least six persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed.

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.

(8) The members of a committee who represent workers shall be selected by the workers who do not exercise managerial functions and who will be represented by those members of the committee in the workplace or the part or parts thereof, as the case may be.

(9) Where there is a trade union or trade unions representing the workers referred to in subsection (8), the selection of the members of a committee referred to in subsection (8) may be delegated by a majority of such workers to the trade union or trade unions.

(10) The employer shall select the remaining members of a committee from among persons who exercise managerial functions for the employer and, to the extent possible, who do so at the workplace.

(11) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.

(12) Two of the members of a committee shall, on a rotating basis, co-chair the committee, one of whom shall be selected by the members who represents workers and the other of whom shall be selected by the members who exercise managerial functions.

(13) It is the function of a committee and it has power to -

- (a) identify situations that may be a source of danger or hazard to workers;

- (b) make recommendations to the employer and the workers for the improvement of the health and welfare of workers;
- (c) recommend to the employer and the workers the establishment, maintenance and monitoring of programmes measures and procedures respecting the safety of workers;
- (d) obtain information from the employer respecting -
 - (i) the identification of potential or existing hazards of materials, processes or equipment; and
 - (ii) safety and health experience and work practices and standards in similar or other industries of which the employer has knowledge;
- (e) obtain information from the employer concerning the conducting or taking of tests of any equipment, machine device, article, material, chemical, physical agent or biological agent in or about a workplace for the purpose of occupational safety and health; and
- (f) be consulted about, and have a designated member representing workers be present at the beginning of testing referred to in clause (e) conducted in or about the workplace if the designated member believes his presence is

required to ensure that valid testing procedures are used or to ensure that the test results are valid.

(14) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in subsection (13) (f).

(15) An employer who receives written recommendations from a committee shall respond in writing within twenty-one days.

(16) A response of an employer under subsection (15) shall contain a time table for implementing the recommendations the employer agrees with and give reasons why the employer disagrees with any recommendations that the employer does not accept.

(17) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

(18) The members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace.

(19) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

(20) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (18) shall inspect the physical

condition of the entire workplace at least once a month.

(21) If it is not practical to inspect the entire workplace in any one day in a month, in accordance with subsection (20), the member designated under subsection (18) shall continue on any one or several remaining days of the said month to inspect at least a part of the workplace on each such day until the entire workplace is inspected in that month.

(22) The inspection required by subsection (21) shall be undertaken in accordance with a schedule established by the committee.

(23) The employer and the workers shall provide a member designated under subsection (18) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

(24) The member designated under subsection (18), shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time.

(25) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or injured at a workplace from any cause and one of those members may, subject to 69(2), inspect the place where the accident occurred and any machine, device or article, and shall report his or her findings to the employer and the

(26) An employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

(27) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister.

(28) A member of a committee is entitled to -

- (a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
- (b) such time as is necessary to carry out the member's duties under subsections (20), (21) and (25).

(29) A member of a committee shall be deemed to be at work during the times mentioned in subsection (28) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper.

(30) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between an employer and the workers has, in addition to its functions and powers under the provisions of the collective

agreement or arrangement, the functions and powers conferred upon a committee by this section.

(31) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by an employer, the dispute shall be decided by the Commissioner after consulting the employer and the workers or trade union or trade unions representing the workers.

**Worker
trades
committee.**

24.(1) If a committee is required at a construction site, other than a construction site where fewer than fifty workers are regularly employed or that is expected to last less than three months, the committee shall establish a worker trades committee for the construction site.

(2) The members of a worker trades committee shall represent workers employed in each of the trades at the workplace.

(3) The members of a worker trades committee shall be selected by the workers employed in the trades the members are to represent.

(4) Where there is a trade union representing the workers referred to in subsection (3), the selection of the members of a worker trades committee may be delegated by a majority of such workers to the trade union.

(5) It is the function of a worker trades committee to inform the committee at the workplace of the safety and health concerns of the workers employed in the trades at the workplace.

(6) Subject to subsection (7), a member of a worker trades committee is entitled to such time from work as is necessary to attend meetings of the worker trades committee and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the member's regular or premium rate as may be proper.

(7) The committee for a workplace shall determine the maximum amount of time for which members of a worker trades committee for the workplace are entitled to be paid under subsection (6) for each meeting of the worker trades committee.

Consul-
tation
or indus-
trial
hygiene
testing.

25. (1) The employer at a workplace shall consult a safety and health representative or the committee with respect to proposed testing strategies for investigating industrial hygiene at the workplace.

(2) The employer shall provide information to a safety and health representative or the committee concerning testing strategies to be used to investigate industrial hygiene at the workplace.

(3) A safety and health representative or a designated committee member representing workers at a workplace is entitled to be present at the beginning of testing conducted with respect to industrial hygiene at the workplace if the representative or member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

(4) The committee members representing workers shall designate one of them for the purpose of subsection (3).

Summary
to be
furnished
Cap 36:01

26.(1) A committee established, or a safety and health representative selected, under this Act, for an employer, may request the Authority to obtain from the National Insurance Board, established under the National Insurance Act, an annual summary of data relating to such employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the incidence of occupational diseases, the number of work-related injuries, and such other data as the committee or safety and health representative may request.

(2) Upon such request and receipt of such annual summary of data, the Authority shall send copies thereof to the committee, safety and health representative and the employer ^{and the employer} shall cause a copy thereof to be posted in a conspicuous place or places at the workplace where it is most likely to come to the attention of the workers.

(3) The Authority shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection to the occupational safety and occupational health of workers generally.

(c) Provisions applicable to Inspectors, etc.

Representation during inspections.

27.(1) Where an inspector makes an inspection of a workplace under the powers conferred upon him or her under section 13, the employer or group of employers shall afford a committee member representing workers or a safety and health representative, if any, or a worker selected by a trade union or trade unions, if any, because of knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of knowledge, training and experience to represent them, the opportunity to accompany the inspector during his physical inspection of a workplace, or any part thereof.

(2) Where there is no committee member representing workers, no safety and health representative or worker selected under subsection (2), the inspector shall endeavour to consult during his physical inspection with a reasonable number of the workers concerning matters of safety and health at their work.

(3) The time spent by a committee member representing workers, a safety and health representative or a worker selected in accordance with subsection (2) in accompanying an inspector during his physical inspection, shall be deemed to be work time of which he shall be paid by his employer at his regular or premium rate as may be proper.

Request for and inspections.

28. Subject to section 23(20), an inspector may in writing direct a safety representative or a member designated under section 23(18) to inspect the physical condition of the workplace or part thereof at specified intervals.

Seizure of documents or articles.

29.(1) While acting under the authority of this Act, an inspector may, without a warrant or court order, seize any article or document that is produced to him or that is in plain view, if the inspector reasonably believes that this Act or a regulation has been contravened and that the article or document will afford evidence of the contravention.

(2) The inspector may remove the article or document seized or may detain it in the place in which it is seized.

(3) The inspector shall inform the person from whom the article or document is seized as to the reason for the seizure and shall give the person a receipt for it; the person from whom the article or document is seized, shall, immediately on receiving information as to the reason for the seizure and the receipt of the article or document seized, bring such information and receipt to the attention of management,

(4) The inspector shall bring an article or document seized under the authority of this section before the Authority or, if that is not reasonably possible, shall report the seizure to the Authority.

Orders by
inspectors
for non-
compliance.

30.(1) Where an inspector finds that a provision of this Act or the regulations is being contravened, the inspector may order, orally or in writing, the owner, employer, or person whom he or she believes to be in charge of a workplace or the person whom the inspector believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies.

(2) Where an inspector makes an oral order under subsection (1), the inspector shall confirm the order in writing before leaving the workplace.

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(3) An order made under subsection (1) shall indicate generally the nature of the contravention and where appropriate the location of the contravention.

(4) An order made under subsection (1) may require an employer to submit to the Authority a compliance plan prepared in the manner and including such items as required by the order.

(5) The compliance plan shall specify what the employer plans to do to comply with the order and when the employer intends to achieve compliance.

(6) Where an inspector makes an order under subsection (1) and finds that the contravention of this Act or the regulations is a danger or hazard to the safety and health of a worker, the inspector may -

- (a) order that any place, equipment, machine, device, article or any process or chemical shall not be used until the order is complied with;
- (b) order that the work at the workplace as indicated in the order shall stop until the order to stop work is withdrawn or cancelled by an inspector after an inspection;
- (c) order that the workplace where the contravention exists be cleared of workers and isolated by barricades, fencing or

any other means suitable to prevent access thereto by a worker until the danger or hazard to the safety or health of a worker is removed.

(7) Despite subsection (6) (b), an employer who gives notice to an inspector of compliance with an order made under subsection (6) may resume work pending an inspection and decision by an inspector respecting compliance with the order if, before the resumption of work, a committee member representing workers or a safety and health representative, as the case may be, advises an inspector that in his opinion the order has been complied with.

(8) In addition to the orders that may be made under subsection (6), where an inspector makes an order under subsection (1) for a contravention of section 62 or 65 or the Authority has been advised of an employer's inability to obtain an unexpired chemical safety data sheet, the inspector may order that the hazardous chemical shall not be used or that the article that causes, emits or produces the hazardous physical agent not to be used or operated until the order is withdrawn or cancelled.

(9) Where an inspector makes an order under this section, he may affix to the workplace, or to any equipment, machine, device or article a copy thereof or a notice in the prescribed form and no person, except an inspector, shall remove such copy or notice unless authorized to do so by

an inspector.

(10) Where an inspector makes an order in writing or issues a report of his inspection to an owner, employer or person in charge of the workplace, the owner, employer or person in charge of the workplace shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the workplace where it is most likely to come to the attention of the workers and shall furnish a copy of such order or report to the safety and health representative or the committee, if any, and the inspector shall cause a copy thereof to be furnished to a person who has complained of a contravention of this Act or the regulations.

(11) An inspector is not required to hold or afford to an owner, employer or any other person an opportunity for a hearing before making an order.

(12) Notwithstanding the requirements specified in this section with regard to an order of an inspector, where an inspector has reason to believe that a person has committed an offence against this Act or the regulations, he may give that person a notice offering him the opportunity to discharge any liability to conviction for that offence by payment to the Authority of a sum of money which amounts to two-thirds of the minimum prescribed penalty within twenty-eight days of the date of the notice.

Entry into
barricaded
area.

31. Where an order is made under section 30(6) (c), no owner, employer or supervisor shall require or permit a worker to enter the workplace except for the purpose of doing work that is necessary or required to remove the danger or hazard and only where the worker is protected from the danger or hazard.

Notice of
compliance.

32.(1) Within three days after an employer who has received an order under section 30 believes that compliance with the order has been achieved, the employer shall submit to the Authority a notice of compliance.

(2) The notice shall be signed by the employer and shall be accompanied by -

- (a) a statement of agreement or disagreement with the contents of the notice, signed by a member of the committee representing workers or by a safety and health representative, as the case may be; or
- (b) a statement that the member or representative has declined to sign the statement referred to in paragraph (a).

(3) The employer shall post the notice of compliance submitted under subsection (1) for a period of fourteen days following its submission to the Authority in a place or places in the workplace where it is most likely to come to the attention of workers.

(4) Despite the submission of a notice of compliance, an employer achieves compliance with an order under section 30 when an inspector determines that compliance has been achieved.

Injunction proceedings.

33. In addition to any other remedy or penalty therefor, where an order under section 30 (6) is contravened, such contravention may be restrained upon an application made to the High Court at the instance of the Authority.

Appeals from order of an inspector.

34.(1) Any employer, owner, worker or trade union which considers himself or itself aggrieved by any order made by an inspector under this Act or the regulations may, within seven days of the making thereof, appeal to the Minister.

(2) An appeal to the Minister may be made in writing or orally or by telephone, but the Minister may require the grounds for appeal to be specified in writing before the appeal is heard.

(3) The appellant, the inspector from whom the appeal is taken and such other persons as the Minister may specify shall be parties to an appeal under this section.

(4) The Minister may, having regard to the circumstances, determine the appeal or direct that an appeal be determined on his behalf, by

the Commissioner.

(5) The Minister or, where the Commissioner has been directed under subsection (4), the Commissioner so directed, may, notwithstanding section 21(2), give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed.

(6) On an appeal under this section, the Minister or, where the Commissioner has been directed under subsection (4), the Commissioner so directed, may substitute his findings for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor, and for such purpose has all the powers of an inspector and the order of the Minister or the Commissioner as the case may be shall stand in the place of and have the like effect under this Act and the regulations as the order of the inspector.

(7) In this section, an order of an inspector under this Act or the regulations includes any order or decision made or given or the imposition of any terms or conditions therein by an inspector under the authority of this Act or the regulations or the refusal to make an order or decision by an inspector.

(8) A decision of the Minister or the Commissioner, as the case may be, under this section is final.

(9) On an appeal under this section, the Minister or, where the Commissioner has been directed under subsection (4), the Commissioner so directed, may suspend the operation of the order appealed from pending the disposition of the appeal.

Obstruction of inspector.

35.(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations.

(2) Every person shall furnish all necessary means in the person's power to facilitate any entry, inspection, examination, testing or inquiry by an inspector in the exercise of his powers or performance of his duties under this Act or the regulations.

(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act or the regulations.

(4) No person shall interfere with any monitoring equipment or device in a workplace.

- (5) No person shall knowingly -
- (a) hinder or interfere with a committee, a committee member or a safety and health representative in the exercise of a power or performance of a duty under this Act;
 - (b) furnish a committee, a committee member or a safety and health representative with false information in the exercise of a power or performance of a duty under this Act; or
 - (c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act.

Information
confidential.

36.(1) Except for the purposes of this Act and the regulations or as required by law -

- (a) an inspector, a person accompanying an inspector or a person who, at the request of an inspector, makes an examination, test or inquiry, shall not publish, disclose or communicate to any person any information, material statement, report or result of any examination, test or inquiry acquired, furnished, obtained, made or received under the powers conferred under this Act or the regulations;

- (b) no person shall publish, disclose or communicate to any person any secret manufacturing process or trade secret acquired, furnished, obtained, made or received under the provisions of this Act or the regulations;
- (c) no person to whom information is communicated under this Act and the regulations shall divulge the name of the informant to any person; and
- (d) no person shall disclose any information obtained in any medical examination, test or X-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.

(2) No employer shall seek to gain access, except by an order of the court or other tribunal or in order to comply with another Act, or in order to employ or continue to employ a worker in a food manufacturing establishment, to a health record concerning a worker without the worker's written consent.

(3) An inspector or a person who, at the request of an inspector, accompanies an inspector, or a person who makes an examination, test, inquiry or takes samples at the request of an inspector, is not a compellable witness in a civil suit or any proceeding, except an inquest under section 71

of this Act, respecting any information, material, statement or test acquired, furnished, obtained, made or received under this Act or the regulations.

(4) The Authority may communicate or allow to be communicated or disclosed information, material, statements or the result of a test acquired, furnished, obtained, made or received under this Act or the regulations.

(5) Subsection (1) shall not apply so as to prevent any person from providing any information in the possession of the person, including confidential business information, in a medical emergency for the purpose of diagnosis or treatment.

Copies of reports.

37. The Authority may, upon receipt of a request in writing from the owner of an industrial establishment who has entered in an agreement to sell the same and upon payment of the fee or fees prescribed, furnish to the owner or a person designated by the owner copies of reports or orders of an inspector made under this Act in respect of the workplace as to its compliance with subsection 52 (1).

Immunity.

38. No action or other proceeding for damages or prohibition shall be instituted respecting any act done in good faith in the execution or intended execution of a person's duties under this Act or in the exercise or intended exercise of a person's powers under this Act or for any alleged neglect or default in the

execution or performance in good faith of the person's duties or powers if the person is -

- (a) an inspector, a medical inspector, a technical examiner or an advisor for the Authority;
- (b) a safety and health representative or a committee member;
- (c) a worker selected by a trade union or trade unions or by workers to represent them; or
- (d) the Commissioner.

(d) Expenses of Administration

Levy to
defray
expenses.
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39.(1) The Minister may fix an amount that shall be levied by the National Insurance Board established under the National Insurance and Social Security Act against employers of workers in industrial establishments, to defray the expenses of the administration of this Act and such amount shall not exceed an amount prescribed by the Minister for the fiscal year in which this Act comes into force and shall be subject to an increase in each subsequent fiscal year by a sum not exceeding ten per cent of the amount fixed for the preceding fiscal year.

(2) The National Insurance Board shall add to the assessment and levies made under the National Insurance and Social Security Act upon employers under that Act a sum calculated as a percentage of the assessments and levies and which percentage shall be determined as the proportion that the

machinery or plant as aforesaid can be used without risk of bodily injury or danger to safety as aforesaid;

(ii) to carry out such tests as may be necessary to determine the strength or quality of any specified parts of the building, ways, machinery or plant as aforesaid, and to inform the Authority of the results of such tests; or

(b) the Authority may serve the occupier of the industrial establishment a notice in writing specifying the measures which should be adopted to remove the risk of bodily injury, and the danger to safety as aforesaid, and requiring such measures to be carried out before a date to be specified in the notice.

(2) Where it appears to the Authority that the use of any building or part of a building, or any part of the ways, machinery or plant, in an industrial establishment involves imminent risk of bodily injury to, or imminent danger to the safety of, persons employed in connection with the industrial establishment or any class of such persons, the Authority may serve on the occupier of the industrial establishment a notice in writing prohibiting such use as aforesaid until the building or part of the building, or the part of the ways, machinery or plant, as the case may be, has been repaired or altered in such a manner to remove such imminent risk, such imminent danger, as aforesaid.

amount fixed under subsection (1) bears to the total sum that the National Insurance Board fixes and determines to be assessed for payment by such employers and the National Insurance and Social Security Act shall apply to such sum and to the collection and payment thereof in the same manner as it applies to an assessment and levy made under that Act.

(3) The National Insurance Board shall collect the assessment and levy imposed under this section and shall pay the amounts so collected to the Authority.

(4) Regulations made under section 75(3)(h) shall prescribe the provisions for giving effect to this section.

PART IV
SAFETY AND HEALTH

Safety of buildings, ways, machinery and plant.

40.(1) Where it appears to the Authority that any building or part of a building, or any part of the ways, machinery or plant, in an industrial establishment is in such a condition as to be likely to cause risk of bodily injury to, or to endanger the safety of, persons employed in connection with the industrial establishment or any class of such persons -

(a) the Authority may serve on the occupier of the industrial establishment a notice in writing requiring him, before a date to be specified in the notice-

(i) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building or part of the building, or such part of the ways,

Prohibition of
employment
of
children in
factories
and power
to exclude
children
therefrom.

41.(1) No child shall be employed in any factory or in the business of a factory outside the factory, or in any business trade or process ancillary to the business of the factory.

(2) Where it appears to the Authority that the presence in any factory or part of the factory, of children who cannot lawfully be employed therein may be dangerous to them or injurious to their health, the Authority may serve on the occupier of the factory a notice in writing requiring him to prohibit and to prevent the admission of such children to the factory, or part of the factory, as the case may be.

Construction
and sale
of new
machinery.

42.(1) In the case of any machine in an industrial establishment being 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 by situation and design as to prevent danger,

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

(2) Any person who sells, or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire for use in an industrial establishment in Guyana any machine intended to be driven by mechanical power which does not comply with the requirements of this section shall be guilty of an offence.

(3) The Minister may make regulations extending subsection (2) to machinery or plant which does not comply with such requirements of this Act as may be specified in the regulations, and any regulations made under this subsection may relate to machinery or plant in a specified process.

(4) Nothing in this section shall be construed as applying to any machine imported into, or constructed in, Guyana before the commencement of this Act, and regulations made under this section shall not apply to any machinery or plant imported into, or constructed in, Guyana before the coming into force of such regulations.

Provisions as to sanitary or other arrangements.

43.(1) In every part of an industrial establishment in which workers are employed-

- (a) suitable and sufficient means of ventilation shall be provided and maintained;
- (b) suitable and sufficient means of lighting shall be provided and every such part of an industrial establishment shall be kept suitably and sufficiently lighted.

(2) In every industrial establishment there shall be provided and maintained at suitable points conveniently accessible to all workers an adequate supply of wholesome potable water and vessels containing the water shall be clearly marked with the words "Drinking Water".

(3) Where workers take any meals in the industrial establishment, there shall be provided and maintained suitable and sufficient facilities for the taking of those meals.

(4) In every industrial establishment there shall be provided and maintained for the use of the industrial establishment suitable and sufficient accommodation for clothing not worn during working hours with separate accommodation where male and female workers are employed.

(5) In every industrial establishment, not being an industrial establishment exempted from the provisions of this subsection, there shall be provided and maintained for the use of the workers suitable and sufficient sanitary conveniences and suitable and sufficient washing facilities.

(6) An industrial establishment shall be exempted from the provisions of subsection (5) if there is in force a certificate granted by the appropriate authority exempting that industrial establishment therefrom, and any such certificate shall remain in force until it is withdrawn by the Authority, but no such certificate shall be granted with respect to any industrial establishment unless the authority is satisfied that by reason of restricted accommodation or other special circumstances affecting the industrial establishment it is reasonable that such a certificate should be in force with respect thereto, and that suitable and sufficient sanitary conveniences or washing facilities as the case may be, are otherwise conveniently available, and, subject as hereinafter provided, a certificate in force with respect to any industrial establishment shall be withdrawn if the Authority at any time ceases to be so satisfied as aforesaid:

Provided that, if the occupier of an industrial establishment is aggrieved by the withdrawal of such a certificate, he may appeal to the magistrate's court for the district in which the industrial establishment is situated and that court may make such order concerning the certificate as appears to the court, having regard to the matters aforesaid, to be just and equitable.

(7) If it appears to the appropriate authority that there has been, in the case of any industrial establishment a contravention of any of the provisions of this section, the Authority shall, by notice served on the occupier of the industrial establishment, require him to take, within such time as may be limited by the notice such action as may be specified in the notice for the purpose of securing compliance with the said provision, and, if any person served with such a notice fails to comply with the requirements thereof he shall be liable on summary conviction to a fine of seven thousand, five hundred dollars or in the case of a second or subsequent conviction in respect of the same requirement to a fine of twelve thousand, five hundred dollars or seven hundred and fifty dollars for every day since the first conviction in respect of that requirement, whichever is the greater:

Provided that it shall be a defence to any proceeding under this subsection to prove that there was no contravention of this section or that the requirements of any such notice as aforesaid were, within a reasonable time after service of the notice, complied with in so far as they were necessary to secure compliance with this section.

(8) In this section-

“suitable and sufficient” means suitable and sufficient in the opinion of the appropriate authority, having regard to the circumstances and conditions affecting an industrial establishment or any part of an industrial establishment; and

“appropriate authority” means the authority whose duty it is to enforce this section.

Apportionment of expenses.

44. If any occupier of an industrial establishment who has incurred or is about to incur any expense for the purpose of securing that the requirements of the last foregoing section are complied with with respect to the industrial establishment, alleges that the whole or any part of the expense ought to be borne by any other person having an interest in the premises, he may apply to the magistrate’s court for the district in which the industrial establishment is situated and that court may make such order concerning the expense or its apportionment as appears to the court, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be just and equitable, and any order made under this section may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

PART V
DUTIES OF EMPLOYERS, WORKERS AND OTHER PERSONS

Duties of employer at construction site.

- 45.(1) An employer at a construction site shall ensure that -
- (a) the measures and procedures prescribed by this Act and the regulations are carried out on the construction site;
 - (b) every employer and every worker performing work on the construction site complies with this Act and the regulations;

- (c) the safety and health of workers on the construction site is protected.

(2) Where so prescribed, an employer at a construction site shall, before commencing any work on a construction site, give to the Authority notice in writing of the construction work containing such information as may be prescribed.

Duties of employer generally.

46.(1) An employer shall ensure that -

- (a) the equipment materials and protective devices and clothing as prescribed are provided;
- (b) the equipment, material and protective devices and clothing provided by the employer are suitable and adequate and maintained in good condition;
- (c) the measures and procedures prescribed are carried out in the workplace;
- (d) the equipment, materials and protective devices and clothing provided by the employer are used as prescribed;
- (e) a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under any Act; and

(f) without prejudice to the provisions of any Act that governs environmental protection and pollution control in Guyana, work in a workplace is carried out without causing a discharge of noxious, hazardous, or polluting matter into air, water, or soil so far as is reasonably practicable or except under and in accordance with any license for the purpose granted under the authority of any Act.

(2) Without limiting the strict duty imposed by subsection (1), an employer shall-

- (a) provide information, instruction and supervision to a worker to protect the safety and health of the worker;
- (b) in a medical emergency for the purpose of diagnosis or treatment provide, upon request, information in the possession of the employer including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed;
- (c) when appointing a supervisor, appoint a competent person;
- (d) acquaint a worker or a person in authority over a worker of any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment, chemical,

workers to represent them, and develop and maintain a programme to implement that policy;

(k) post at a conspicuous location in the workplace a copy of the occupational safety and health policy;

(l) provide to the committee or to a safety and health representative the results of any a report respecting occupational safety and health that is in the employer's possession and, if that report is in writing, a copy of the portions of the report that concern occupational safety and health;

(m) advise workers of the results of any report referred to in paragraph (1) and, if the report is in writing, make available to them on request copies of the portions of the report that concern occupational safety and health;

(n) after being notified by a female worker that she is pregnant, adapt the working conditions of such worker to ensure that she is not involved in the use of or exposure to chemicals or substances or terms or conditions of work, which are hazardous to her health and the health of the unborn child; where alternative work not involving the use or exposure or terms or conditions as aforesaid is available such work shall be assigned to such worker during pregnancy with the right of such worker to return to her previous work after the birth of her child;

physical agent or biological agent;

(e) afford assistance and co-operation to a committee and a safety and health representative in the carrying out by the committee and the safety and health representative of any of their functions;

(f) subject to such age as may be prescribed, only employ in or about a workplace a person over such age as the age of completion of compulsory schooling, and in any case, fourteen years;

(g) subject to such age as may be prescribed, not knowingly permit a person to be in or about a workplace who is under such age as the age of completion of compulsory schooling, and in any case, fourteen years;

(h) take every precaution reasonable in the circumstances for the protection of a worker;

(i) post, in the workplace, a copy of this Act and any explanatory material prepared by the Authority outlining the rights, responsibilities and duties of workers;

(j) prepare and review at least annually a written occupational safety and health policy in consultation with the committee or safety and health representative, if any, or a worker selected by the

(o) provide and maintain a safe, sound, healthy and secure working environment as far as is reasonably practicable;

(p) ensure that the workplace, machinery, equipment and processes under his control are safe and without risk to safety and health as far as is reasonably practicable; and

(q) ensure that, as far as is reasonably practicable, the chemicals, physical agents and biological agents under his control are without risk to safety and health when the appropriate measures of protection are taken.

(3) For the purposes of subsection (2) (c), an employer may appoint himself as a supervisor where the employer is a competent person.

(4) Subsection (2) (j) does not apply with respect to a workplace at which five or fewer workers are employed.

Additional duties of employers.

47.(1) In addition to the duties imposed by section 46, an employer shall -

(a) establish an occupational health service for workers as prescribed;

(b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;

- (c) keep and maintain accurate records of the handling storage, use and disposal of chemicals, physical agents or biological agents as prescribed;
- (d) accurately keep and maintain and make available to the worker affected such records of the exposure of a worker to chemicals physical agents or biological agents as may be prescribed;
- (e) notify the Authority of the use or introduction into a workplace of such chemicals, physical agents or biological agents as may be prescribed;
- (f) monitor at such time or times or at such interval or intervals the levels of chemicals, physical agents or biological agents in a workplace and keep and post accurate records thereof as prescribed;
- (g) comply with any standard limiting the exposure of a worker to chemicals, physical agents or biological agents as prescribed;
- (h) establish a medical surveillance program for the benefit of workers as prescribed;
- (i) provide for safety-related medical examinations and tests for workers as prescribed;

- (j) where so prescribed, only permit a worker to work or be in a workplace who has undergone such medical examinations, tests or X-rays as prescribed and who is found to be physically fit to do the work in the workplace;
- (k) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of the worker;
- (l) carry out such training programmes for workers, supervisors and committee members as may be prescribed;
- (m) adopt provisions to protect the privacy of workers and ensure that health surveillance is not used for discriminatory purposes or in any manner prejudicial to their interests, where a prescribed occupational health service is established under subsection (1)(a), prescribed safety-related medical examinations and tests are provided under subsection (1)(i), and only workers who have undergone prescribed medical examinations and tests are permitted to work under subsection (1) (j); and
- (n) keep, maintain, and make available to workers in the workplace, in a location that is readily accessible, a medicine chest with contents as prescribed, and shall ensure that first aid, including trained

personnel, is available at the workplace.

(2) For the purposes of subsection (1)(a), a group of employers, with the approval of the Authority, may act as an employer.

(3) If a worker participates in a prescribed medical surveillance programme or undergoes prescribed medical examinations or tests, his or her employer shall pay -

- (a) the worker's costs for medical examinations or tests required by the medical surveillance programme or required by regulation;
- (b) the worker's reasonable travel costs respecting the examinations or tests; and
- (c) the time the worker spends to undergo the examinations or tests, including travel time, which shall be deemed to be work time for which the worker shall be paid at his premium rate as may be proper.

(4) In addition to providing information and instruction to a worker as required by section 46(2) (a), an employer shall provide -

- (a) to every worker, training on the safe and healthy manner of carrying out his work; and
- (b) subject to subsection (6), to every committee member who represents workers, if any, or a safety and health representative, if any, training on this Act and the regulations that apply to the work.

(5) In relation to the training that a worker, a committee member who represents workers, if any, or a safety and health representative, if any, receives under subsection (4), his employer shall pay for the worker's committee member's or representative's -

- (a) costs for the training;
- (b) reasonable travel to the location where the training is provided; and
- (c) time spent to undergo the training which shall be deemed to be work time which the worker, committee member or representative shall be paid at his or her premium rate as may be proper.

(6) If a trade union exists at the workplace, the employer shall involve the trade union in the provision of the training required by subsection (4)(b).

**Duties of
supervisor.**

48.(1) A supervisor shall ensure that a worker -

- (a) works in the manner and with the protective devices and clothing, measures and procedures required by this Act and the regulations; and
- (b) uses or wears the equipment, protective devices and clothing that the worker's employer requires to be used or worn.

(2) Without limiting the duty imposed by subsection (1), a supervisor shall -

- (a) advise a worker of the existence of any potential or actual danger to the safety or health of the worker of which the supervisor is aware;
- (b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and
- (c) take every precaution reasonable in the circumstances for the protection of a worker.

Duties
of worker.

49.(1) A worker shall -

- (a) work in compliance with the provisions of this Act and the regulations;
- (b) use or wear the equipment, protective devices and clothing that the worker's employer requires to be used or worn;
- (c) report to his or her employer or supervisor the absence of or defect in any equipment or protective device and clothing of which the worker is aware and which may endanger himself, or another worker;
- (d) report to his or her employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he or she knows; and

(e) take care of the personal protective equipment, devices and clothing the worker's employer provides.

(2) No worker shall -

(a) remove or make ineffective any protective device required by his or her employer, without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;

(b) use or operate any equipment, machine, device or article or work in a manner that may endanger himself, or any other worker, or

(c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

(3) A worker is not required to participate in a prescribed medical surveillance programme unless the worker consents to do so.

(4) No worker shall be required to use equipment or machinery without any protective device required by the regulations or by his or her employer being in position.

General
duties of
occupiers.

50.(1) Except as otherwise expressly provided, it shall be the duty of every occupier of an industrial establishment to ensure that Part IV and such other provisions of this Act or such regulations as impose duties on him, are complied with.

(2) An occupier shall, upon the direction of the Authority, prepare, or revise a written statement of his general policy with respect to the safety and health of persons employed in the industrial establishment, specifying the organisation and arrangements for the time being in force for carrying out that policy and the provisions specified in subsection (1), and the occupier shall submit the statement and any revision thereof to the Authority and bring them to the notice of all persons employed in the industrial establishment.

(3) The Authority may, having regard to the statement submitted under subsection (2), direct the occupier to appoint at his own expense, a safety officer who shall be responsible for ensuring that the policy and the provisions specified in subsection (1) are complied with.

General
duty of
occupier
to protect
safety and
health of
public.

51.(1) The occupier of every industrial establishment shall be under a duty to take steps to protect the safety and health of the public in the vicinity of his industrial establishment from dangers created by the operation or processes carried on therein, and shall take special care to ensure that plant and equipment used therein are of such integrity and that such adequate safety systems exist as to prevent the occurrence of hazardous emissions.

(2) Where the Authority is of the view that the steps taken under subsection (1) are inadequate, it may issue directions in writing to the occupier specifying the measure to be taken in an industrial establishment or in its vicinity to prevent injury to the public and the period within which those measures are to be taken.

(3) Directions under subsection (2) may include a requirement -

- (a) to obtain and implement advice from specialists or expert consultants;
- (b) to implement measures to abate nuisances arising from the operations carried on in industrial establishments; or
- (c) to implement measures to prevent the occurrence of hazardous emissions.

(4) An occupier who fails to comply with directions issued under subsection (2) commits an offence.

Duties of owner.

52. (1) The owner of an industrial establishment that is not a construction site shall-

- (a) ensure that -
 - (i) such health and safety facilities as are prescribed are provided;
 - (ii) any such facilities prescribed to be provided are maintained as prescribed
 - (iii) the industrial establishment complies with the

regulations; and

(iv) no industrial establishment is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and

(b) furnish to the Authority such drawings, plans or specifications of any industrial establishment on such scale and showing such matters or things as may be prescribed.

(2) An owner or employer shall -

(a) not begin any construction, development, reconstruction, alteration, additon or installation to or in an industrial establishment until the drawings, layout and specifications as are referred to in subsection (1)(b) and any alterations thereto have been filed with the Authority for review by a technical examiner of the Authority for compliance with this Act and the regulations; and

(b) keep a copy of the drawings as reviewed in a convenient location at or near the industrial establishment and such drawings shall be produced by the owner or employer upon the request of an inspector for his or her examination and inspection.

(3) A technical examiner may require the drawings, layout and specifications to be supplemented by the owner or employer with additional information.

(4) Fees as prescribed for the filing and review of drawings, layout or specifications shall become due and payable by the owner or employer upon filing.

Duty of owners of construction sites.

53.(1) Before beginning construction work, the owner shall determine whether any critical substances are present at the construction site and shall prepare a list of all critical substances that are present at the site.

(2) If any work on a construction site is tendered, the person issuing the tenders shall include, as part of the tendering information, a copy of the list referred to in subsection (1).

(3) An owner shall ensure that a prospective employer at a construction site on the owner's property has received a copy of the list referred to in subsection (1) before entering into a binding contract with the employer.

(4) The employer at a construction site shall ensure that each prospective contractor and subcontractor for the construction work has received a copy of the referred to in subsection (1) before the prospective contractor or subcontractor enters into a binding contract for the supply of work on the construction site.

(5) An owner who fails to comply with this section is liable to the employer at a construction site and every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the construction site of a critical substance that the owner ought reasonably to have known of but that was not on the list prepared under subsection (1).

(6) An employer at a construction site who fails to comply with this section is liable to every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the construction site of a critical substance that was not on the list prepared under subsection (1).

Duties of
supplier.

54.(1) Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a workplace shall ensure -

- (a) that the machine, device, tool or equipment is in good condition;
- (b) that the machine, device, tool or equipment complies with this Act and the regulations; and
- (c) if it is the person's responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool

or equipment is maintained in good condition.

(2) An architect and an engineer contravenes this Act if, as a result of his certification required under this Act or any other Act that is made negligently or incompetently, a worker is endangered.

Duties of directors and officers of a body corporate.

55. Every director, manager secretary or other officer of a body corporate shall take all reasonable care to ensure that the body corporate complies with -

- (a) this Act and the regulations;
- (b) orders and requirements of an inspector, a medical inspector, a technical examiner the Commissioner and the Authority; and
- (c) orders of the Minister.

Refusal to work.

56.(1) A worker may refuse to work or do particular work where he has reasonable justification to believe that -

- (a) any equipment, machine, device or article the worker is to use or operate presents an imminent and serious danger to the life or health of himself, or another worker; or
- (b) the physical condition of the workplace or the part thereof in which he works or is to work presents an imminent and serious danger to his life or health.

(2) The provisions in this section shall not apply to a worker -

- (a) who belongs to any of the categories of persons specified for such purpose in an order of the Minister; and
- (b) when that worker's refusal to work would directly endanger the life, safety or health of another person.

(3) The categories of persons to which subsection (2)(a) refers may be-

- (a) a person employed in, or a member of, the police force or the fire service;
- (b) a person employed in the operation of a correctional institution or facility;
- (c) a person employed in the operation of -
 - (i) a hospital, sanatorium, nursing home, home for the aged, psychiatric institution, mental health or mental retardation centre or a rehabilitation facility;
 - (ii) an ambulance service or a first aid clinic or station;
 - (iii) a laundry, food service, power plant or technical service or facility used in conjunction with an institution, facility or service described in paragraph (c) (i) and (ii);
- (d) a person who is employed in any of the

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services mentioned in the Schedule to the Public Utility Undertakings and Public Health Services Arbitration Act, but who is not specified in subsection (3)(a) to (c) inclusive.

(4) Upon refusing to work or do particular work, the worker shall forthwith report the circumstances of the refusal to the worker's employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of -

- (a) a committee member who represents workers, if any;
- (b) a safety and health representative, if any; or
- (c) a worker who because of knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

(5) Until the investigation is completed, the worker shall remain in a safe place near his or her work station.

(6) The worker who refuses to work under subsection (1) shall be deemed to be at work and the worker's employer shall pay him at the regular or premium rate, as may be proper, for the time extending from the time when the worker started to refuse to work

under subsection (1) to the time when the investigation mentioned in subsection (5) is completed.

(7) Where, following the investigation or any remedial action taken by the employer or supervisor to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable justification to believe that -

(a) the equipment, machine, device or article that was the cause of the refusal to work or do particular work continues to present an imminent and serious danger to the life or health of himself or another worker; or

(b) the physical condition of the workplace or the part thereof in which he worked continues to present an imminent and serious danger to the life or health of himself,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

(8) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and the person mentioned in subsection (4) (a), (b) or (c), if any

(9) The inspector shall, following the investigation referred to subsection (8), decide whether the machine, device, article or the workplace or part thereof presents an imminent and serious danger to the life or health of the worker or another person.

(10) The inspector shall within two working days of notification to him under subsection (7), give his decision, in writing to the employer, the worker, and the person mentioned in subsection (4) (a), (b) or (c), if any.

(11) Pending the investigation and decision of the inspector, the employer, subject to the provisions of a collective agreement, if any shall -

- (a) assign the worker reasonable alternative work during such hours; or
- (b) subject to section 58, where an assignment of reasonable alternative work is not practicable, give other directions to the worker.

(12) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or article or to work in the workplace or in the part of the workplace being investigated as long as there is continuing imminent and serious danger to the life or health of any worker or person and until after the employer or

supervisor has taken remedial action, if necessary, to deal with the circumstances that caused the worker to refuse to do particular work.

(13) The worker who refuses to work under subsection (7) shall be deemed to be at work and the worker's employer shall pay him at the regular or premium rate, as may be proper, for the time extending from the time when the worker started to refuse to work under subsection (7) to the time when the inspector has given a decision under subsection (9) provided that the inspector decides that the machine, device, article or workplace or part thereof presents an imminent and serious danger to the life or health of the worker or another person.

(14) A person mentioned in subsection (4) (a), (b) or (c), shall be deemed to be at work and the person's employer shall pay him at the regular or premium rate, as may be proper for the time spent by the person carrying out the duties under subsections (4) and (8).

Complaint regarding refusal to work.

57.(1) An employer, a worker at the workplace or a representative of a trade union that represents workers at the workplace may file a complaint with the Authority if he has reasonable grounds to believe that the worker, trade union or employer at the workplace acted recklessly or in a bad faith with respect to the refusal to work under section 56.

(2) A complaint must be filed not later than seven days after the event to which the complaint relates.

(3) Every complaint filed with the Authority shall be referred to the Commissioner for determination.

(4) The Commissioner shall within two working days of any reference to him under subsection (3), make a decision respecting the complaint and may make such order as he considers appropriate in the circumstances.

No discipline, dismissal, etc., by employer.

58.(1) No employer or person acting on behalf of an employer shall -

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker; or
- (d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder, or has sought the enforcement of this Act or the regulations or has observed the procedures established by the employer or has given evidence in a proceeding in respect of the enforcement of this

Act or the regulations or in an inquest under section 71.

(2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection (1), the worker may either have the matter dealt with by final and binding settlement, by arbitration under a collective agreement, if any, or file a complaint with the Authority; where a complaint is filed with the Authority, the Authority shall direct that the complaint be determined on its behalf by the Commissioner.

(3) The Commissioner directed under subsection (2) shall inquire into any complaint filed under subsection (2).

(4) On an inquiry into a complaint filed under subsection (2), the Commissioner shall, notwithstanding section 21(2) give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed.

(5) On an inquiry by the Commissioner into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.

PART VI
HAZARDOUS CHEMICALS, PHYSICAL AGENTS AND
BIOLOGICAL AGENTS

**Orders of
Authority.**

59.(1) Where a chemical, physical agent or biological agent or a combination of such a chemical and agents is used or intended to be used in the workplace and its presence in the workplace or the manner of its use is in the opinion of the Authority likely to endanger the health of a worker, the Authority shall by notice in writing to the employer order that the use, intended use, presence or manner of use be -

- (a) prohibited;
- (b) limited or restricted in such manner as the Authority specifies; or
- (c) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Authority specifies.

(2) Where the Authority makes an order to an employer under subsection (1), the order shall -

- (a) identify the chemical, physical agent or biological agent, or a combination of such a chemical and agents, and the manner of use that is the subject-matter of the order; and
- (b) state the opinion of the Authority as to the likelihood of the danger to the health of a worker, and the Authority's reasons in respect thereof, including the matters or causes which give

rise to the Authority's opinion.

(3) The employer shall provide a copy of an order made under subsection (1) to the committee, safety and health representative and trade union, if any, and shall cause a copy of the order to be posted in a conspicuous place in the workplace where it is most likely to come to the attention of the workers who may be affected by the use, presence or intended use of the chemical, physical agent or biological agent or a combination of such a chemical and agent .

(4) Where the employer, a worker or a trade union considers that he or it is aggrieved by an order made under subsection (1), the employer, worker or trade union may by notice in writing given within seven days of the making of the order, appeal to the Minister.

(5) On an appeal under subsection (4), the Minister or the Commissioner who has been directed under subsection (6) to determine the appeal, may suspend the operation of the order appealed from pending the disposition of the appeal.

(6) The Minister may, having regard to the circumstances determining the appeal within thirty days of notice of such appeal or direct that the appeal be determined on his behalf by the Commissioner within the

(7) The Minister or, where the Commissioner has been directed under subsection (6), the Commissioner so directed, may notwithstanding section 21(2) give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed.

(8) On an appeal, the Minister or, where the Commissioner has been directed under subsection (6), the Commissioner so directed, may substitute his findings for those of the Authority and may rescind or affirm the order appealed from or make a new order in substitution thereof and such order shall stand in the place of and have the like effect under this Act and the regulations as the order of the Authority, and such order shall be final and not subject to appeal under this section.

(9) In making a decision or order under subsection (1) or (8), the Authority, the Minister or, where the Commissioner has been directed under subsection (6), the Commissioner so directed shall consider as relevant factors -

- (a) the relation of the chemical or agent, combination of chemicals and agents or by-product to a chemical or a biological agent that is known to be a danger to health;
- (b) the quantities of the chemical or agent, combination of chemicals and agents or by-product used or intended to be used or present;

- (c) the extent of exposure;
- (d) the availability of other processes, chemicals and agents or equipment for use or intended use;
- (e) data regarding the effect of the process or chemicals or agent on health; and
- (f) any criteria or guide with respect to the exposure of a worker to a chemical, physical agent or biological agent or a combination of such a chemical and agents that are adopted by a regulation.

(10) This section does not apply to critical substances.

(11) The Authority is not required to hold or afford to an employer or any other person an opportunity for a hearing before making an order under subsection (1).

New chemicals or biological agents.

60.(1) Except for purposes of research and development, no person shall -

- (a) manufacture;
- (b) distribute; or
- (c) supply,

for commercial or industrial use in a workplace any new chemical or new biological agent unless the person first submits to the Authority notice in writing of the person's intention to manufacture, distribute or supply such

a new chemical or agent and the notice shall include the ingredients of such a new chemical or agent and their common or generic name or names and the composition and properties thereof.

(2) Where in the opinion of the Authority, which opinion shall be made promptly, the introduction of the new chemical or new biological agent referred to in subsection (1) may endanger the safety or health of the workers in a workplace, the Authority shall require the manufacturer, distributor or supplier, as the case may be, to provide, at the expense of the manufacturer, distributor or supplier, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the Authority, of the new chemical or agent intended to be manufactured, distributed or supplied and the manner of use including the matters referred to in section 13 (1)(r)(i) to (vii).

(3) For the purpose of this section, a chemical or biological agent is not considered to be new if, before a person manufactures, distributes or supplies the chemical or agent in Guyana, it was used in a workplace other than the person's workplace's in Guyana or it is included in an inventory compiled or adopted by the Authority

Hazardous materials inventory.

61.(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous chemicals and all hazardous physical agents that are present in the workplace.

- (2) The inventory required by subsection (1) -
- (a) shall contain such information as may be prescribed, and in addition shall include -
- (i) toxic properties, including both acute and chronic health effects in all parts of the body;
 - (ii) chemical or physical characteristics, including flammable, explosive, oxidising and dangerously reactive properties;
 - (iii) corrosive and irritant properties;
 - (iv) allergenic and sensitising effects;
 - (v) carcinogenic effects;
 - (vi) teratogenic and mutagenic effects;
 - (vii) effects on the reproductive system;
- (b) shall be prepared in consultation with the committee or safety and health representative, if any, for the workplace or with a worker selected by the workers to represent them, if there is no committee or safety and health representative.
- (3) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the 1st day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year.

(4) Where, under this Act or the regulations, an employer is required to identify or obtain the identity of the ingredients of a hazardous chemical, the employer shall not be in contravention of this Act or the regulations if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients, but has been unable to do so due to circumstance beyond his control.

(5) An employer shall advise the Authority in writing if, after making reasonable efforts, the employer is unable to identify or obtain the identity of the ingredients of a hazardous chemical as required by this Act or the regulations.

(6) Except as may be prescribed, subsection (1) does not apply to an employer who undertakes to perform work or supply services on a construction site in respect of chemicals to be used on the site.

(7) The employer shall keep readily accessible at the workplace a floor plan, as prescribed, showing the names of all hazardous chemicals and their locations and shall post a notice stating where the floor plan is kept in a place or places where it is most likely to come to the attention of workers.

Hazardous
chemical
identification
and data
sheets.

62. (1) An employer -

(a) shall ensure that all hazardous chemicals present in the

workplace are labelled in a way easily understandable to the workers, or are identified in the prescribed manner;

(b) shall obtain or prepare, as may be prescribed, an unexpired chemical safety data sheet for all hazardous chemicals present in the workplace;

(c) shall ensure that the identification required by paragraph (a) and chemical safety data sheets required by paragraph (b) are available in English and such other languages as may be prescribed;

(d) shall ensure that when hazardous chemicals are transferred into other containers or equipment, the contents are indicated in a manner which will make known to workers their identity, any hazards associated with their use, and any safety precautions to be observed; and

(e) shall ensure that information is provided on the handling and disposal of hazardous chemicals which are no longer required and containers which have been emptied but which may contain residues of hazardous chemicals, so that the risk to safety and health and to the environment is eliminated or minimised.

(2) No person shall remove or deface the label or identification described in subsection (1) (a) for a hazardous chemical.

(3) An employer shall ensure that a hazardous chemical is not used, handled or stored at a workplace unless the prescribed requirements concerning identification, chemical safety data sheets and worker instruction and training are met.

(4) An employer shall advise the Authority in writing if the employer, after making reasonable efforts, is unable to obtain a label or chemical safety data sheet required by subsection (1).

(5) A chemical safety data sheet expires three years after the date of its publication.

Inventory and chemical safety data sheets to be made available.

63.(1) A copy of the most recent version of the inventory and of every unexpired chemical safety data sheet required by this Part in respect of hazardous chemicals in a workplace shall be -

- (a) made available by the employer in the workplace in such a manner as to allow examination by the workers;
- (b) furnished by the employer to a committee or safety and health representative, if any, for the workplace or to a worker selected by the workers to represent them if there is no committee or safety and health representative;

(c) furnished by the employer on request, if so prescribed, to the medical inspector of the district in which the workplace is located;

(d) furnished by the employer on request, if so prescribed, to the fire department which serves the location in which the workplace is located; and

(e) filed by the employer with the Authority on request, if so prescribed.

(2) The Authority, at the request of any person, shall request an employer to furnish a copy of the most recent version of the inventory or of an unexpired chemical safety data sheet, as the case may be.

(3) At the request of any person, the Authority shall make available to the person for inspection a copy of any inventory or chemical safety data sheet requested by the person and in the possession of the Authority.

(4) The Authority shall not disclose the name of any person who makes a request under subsection (2) or (3).

(5) In addition to the requirements imposed under subsection (1), a copy of every chemical safety data sheet required by subsection (1) shall be made available by the employer in the workplace in such a manner

that it is readily accessible by all workers who may be exposed to the hazardous chemical to which it relates.

(6) An employer who makes a chemical safety data sheet readily accessible on a computer terminal at a workplace -

- (a) shall take all reasonable steps necessary to keep the terminal in working order;
- (b) shall give a worker upon request a copy of the chemical safety data sheet; and
- (c) shall teach all workers who work with or in proximity to hazardous chemicals, the safety and health representative, if any, at the workplace and the members of the committee how to receive the chemical safety data sheet on the computer terminal.

Assessment for hazardous chemical.

64.(1) Where so prescribed, an employer shall assess all chemicals and biological agents produced in the workplace for use therein to determine if they are hazardous.

(2) The assessment required by subsection (1) shall be in writing and a copy of it shall be -

- (a) made available by the employer in the workplace in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or safety and

health representative, if any, for the workplace or to a worker selected by the workers to represent them, if there is no committee or safety and health representative.

Hazardous physical agents.

65. (1) A person who distributes or supplies, directly or indirectly, or manufactures, produces or designs an article for use in a workplace that causes, emits or produces a hazardous physical agent when the article is in use or operation shall ensure that such information as may be prescribed is readily available respecting the hazardous physical agent and the proper use or operation of the article.

(2) Where an employer has an article described in subsection (1) in the workplace, the employer shall ensure that the information referred to in that subsection has been obtained and is -

(a) made available in the workplace for workers who use or operate the article or who are likely to be exposed to the hazardous physical agent; and

(b) furnished by the employer to the committee or safety and health representative, if any, for the workplace or a worker selected by the workers to represent them, if there is no committee or safety and health representative.

(3) An employer to whom subsection (2) applies shall post prominent

notices identifying and warning of the hazardous physical agent in the part of the workplace in which the article is used or operated or is to be used or operated.

(4) Notices required by subsection (3) shall contain such information as may be prescribed and shall be in English and such other language or languages as may be prescribed.

Instruction and training.

66.(1) In addition to providing information and instruction to a worker as required by section 46(2)(a) , an employer shall ensure that a worker exposed or likely to be exposed to a hazardous chemical or to a hazardous physical agent receives, and that the worker participates in, such instruction and training as may be prescribed.

(2) The instruction and training to be given under subsection (1) shall be developed and implemented by the employer in consultation with the committee or safety and health representative, if any, for the workplace.

(3) An employer shall review, in consultation with committee or safety and health representative, if any, for the workplace, the training and instruction provided to a worker and the worker's familiarity therewith at least annually.

(4) The review described in subsection (3) shall be held more frequently than annually, if -

(a) the employer, on the advice of the committee or safety and health representative, if any, for the workplace, determines that such reviews are necessary; or

(b) there is a change in circumstances that may effect the safety or health worker.

Confidential business information.

67. (1) An employer may file a claim with the Minister for an exemption from disclosing -

(a) information required under this Part in an inventory, label or chemical safety data sheet; or

(b) the name of a toxicological study used by the employer to prepare a chemical safety data sheet,

on the grounds that it is confidential business information and that disclosure of such information to a competitor would be liable to cause harm to an employer's business, so long as the safety and health of workers are not compromised thereby.

(2) An application under subsection (1) shall be made only in respect of such types of confidential business information as may be prescribed.

(3) Any worker of the employer or any trade union representing the workers of the employer may file with the Minister a rebuttal to the claim made by the employer under subsection (1).

(4) The Minister shall make a determination or direct the Commissioner to make a determination on his behalf, on every claim made under subsection (1) and on every rebuttal made under subsection (3).

(5) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined and for three years thereafter, if the claim is found to be valid.

PART VII NOTIFICATION OF ACCIDENTS AND OCCUPATIONAL DISEASES

Interpretation.

68. In this Part-

“employer” includes any body of persons corporate or incorporate and the legal personal representative of a deceased employer, and, where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act be deemed to continue to be the employer of the worker whilst he is working for that other person. In relation to a

person plying for hire with any vehicle or vessel the use of which is obtained by that person under a contract of bailment (other than higher-purchase agreement), the person from whom the use of the vessel or vehicle is so obtained shall, for the purposes of this Act, be deemed to be the employer; and in relation to a person employed for the purpose of any gain or recreation and engaged or paid through a club, the manager or members of the managing committee of the club, shall for the purposes of this Act, be deemed to be the employer.

Notification of accidents.

69.(1) Where any accident arising out of and in the course of the employment of any worker occurs and-

- (a) causes loss of life to such worker; or
- (b) disables such worker, for more than one day, from earning full wages at the work at which he was employed at the time of such accident,

First Schedule

written notice of the accident in the Form and accompanied by the particulars set out in the First Schedule, shall forthwith in the case of paragraph (a) and within four days in the case of paragraph (b), be sent by the employer to the Authority and the committee, safety and health representative or trade union, if any.

(2) Where any accident causing disablement has been notified under this section, and after such notification the accident results in the death of the person disabled, notice in writing of the death shall forthwith be sent by the employer to the Authority and the committee, safety and health representative or trade union, if any, as soon as the fact of the death comes to the knowledge of the employer.

(3) Where an accident causing disablement has been notified under this section and the said disablement has ceased, notice in writing of the date when the disablement ceased shall be sent by the employer to the Authority and the committee, safety and health representative or trade union if any within two weeks from that date, in the Form and accompanied by the particulars set out in the Second Schedule.

Second
Schedule

(4) Any employer who fails to comply with the requirements of subsection (1), (2) or (3) shall be liable on summary conviction to a fine of not less than ten thousand dollars nor more than fifty thousand dollars and to imprisonment for three months.

(5) Where any accident to which this section applies occurs to a worker whose services are for the time being temporarily lent or let on hire to another person by the employer, such other person shall, if he fails to report the accident to the employer immediately, be guilty of an offence, and the employer shall not be liable under the provisions of subsection (4) unless it is established that he knew of the accident.

(6) Where a person loses his life or is disabled under subsection (1), no person shall, except for the purpose of -

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system; or
- (c) preventing unnecessary damage to equipment or other property.

interfere with, disturb, destroy, alter or carry away any wreckage or article at the scene or connected with the occurrence which gave rise to loss of life or disablement until permission so to do has been given by an inspector.

(7) A register of all accidents to which this section applies shall be kept by the employer in the form prescribed by regulations made under this Act.

Notification of occupational diseases and other diseases.

70.(1) Every qualified medical practitioner attending on or called in to visit a patient whom he believes to be suffering from occupational disease contracted in the course of his employment as a worker shall, unless such a notice has been previously sent, forthwith send, addressed to the Authority a notice stating the name and full postal address of the patient and the disease from which, in the opinion of such medical practitioner, the patient is suffering and the name and address of the place at which, and of the employer by whom, he is or was last employed.

(2) If any qualified medical practitioner fails to send any notice in accordance with the requirements of this section, he shall be liable on summary conviction to a fine of not less than ten thousand dollars nor more than thirty thousand dollars.

Third
Schedule

(3) Any employer who believes or suspects, or has reasonable grounds for believing or suspecting that a case of occupational disease has occurred among the workers employed by him, shall forthwith send written notice of such case, in the form, and accompanied by the particulars, set out in the Third Schedule, to the Authority and to the committee, safety and health representative or trade union, if any, and to the Local Sanitary Authority of, and, in the case of workers employed in industrial establishments, to the medical inspector for the area within which the place of employment of such workers is situated, and the provisions of this Act with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in these provisions.

(4) If an employer is advised by or on behalf of a worker that a claim in respect of a "prescribed disease" as defined in the Third Schedule of the National Insurance and Social Security Act has been filed with the National Insurance Board by or on behalf of the worker, the employer shall give notice in writing within four days of being so advised, to the Authority and to the committee, safety and health representative or trade union, if any, containing such information and particulars as are prescribed.

(5) The Minister may, as respects any class or description of place where workers are employed, by regulations made under this Act apply this section to any disease, other than an occupational disease.

Inquest in case of death by accident or occupational disease.

71.(1) Where a coroner holds an inquest on the body of any person whose death may have been caused by an accident or a disease of which notice is required by this Act to be given, the coroner shall adjourn the inquest unless the Authority or some person authorised on behalf of the Authority is present to watch the proceedings, and shall, at least four days before holding the adjourned inquest, send to the Authority notice in writing of the time and place of holding the adjourned inquest:

Provided that -

- (a) the coroner, before the adjournment, may take evidence to identify the body, and may order the internment thereof; and
- (b) if the inquest relates to the death of not more than one person and the coroner has sent to the Authority notice of the time and place of holding the inquest at such time as to reach the Authority not less than twenty-four hours before the time of holding the inquest, it shall not be imperative on him to adjourn the inquest in pursuance of this section if the majority of the jury think it is unnecessary so to adjourn.

(2) The following provisions shall have effect with respect to any such inquest as aforesaid -

(a) no person having a personal interest in or employed in or about or in the management of the place of employment in or about which the accident or disease occurred or was contracted shall be qualified to serve on the jury empanelled on the inquest; it shall be the duty of the coroner or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury;

(b) the following persons shall, subject to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by counsel, solicitor or agent that is to say -

(i) any inspector;

(ii) any relation of the person in respect of whose death the inquest is being held;

(iii) the occupier of the place of employment in which the accident or disease occurred or was contracted;

(iv) the employer of the deceased;

(v) any person appointed by the order in writing of the majority of the persons employed in the place of employment in which the accident or disease occurred or

was contracted;

- (vi) any person appointed in writing by any trade union, friendly society or other association of persons to which the deceased at the time of his death belonged or to which any person employed in the place of employment in which the accident or disease occurred or was contracted belongs;
- (vii) any association of employers of which the said employer is a member.

(3) Where at any such inquest at which the Authority is not present evidence of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the place of employment appearing to the coroner to require a remedy, the coroner shall send to the Authority notice in writing of the neglect or defect.

(4) The provisions of this section shall be in addition to and not in derogation of, the provisions of the Coroners Act.

Cap.4:03

Power of
Minister to
direct
formal
investigation
of accidents
and cases
of
occupational
disease.

72.(1) The Minister may, where he considers it expedient so to do, direct a formal investigation to be held into any accident arising out of and in the course of employment of any worker or case of occupational disease contracted or suspected to have been contracted in the course of employment of any worker and of its causes and circumstances, and with respect to any such investigation the following

provisions shall have effect -

(a) the Minister may appoint a competent person to hold the investigation and may appoint any person possessing legal or special knowledge to act as an assessor in holding the investigation;

(b) the person or persons so appointed (hereafter in this section referred to as "the court") shall hold the investigation in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or case of occupational disease, and for enabling the court to make the report in this section mentioned;

(c) the court shall have for the purposes of the investigation all the powers of a court of summary jurisdiction under the Summary Jurisdiction Acts and, in addition power -

(i) to enter and inspect or to authorise any person to inspect any place or building the entry or inspection whereof appears to the court requisite for the said purpose;

(ii) by summons signed by the court to require the attendance of all such persons as it thinks fit to call before it and examine for the said purposes, and to require answers or returns to such inquiry as it thinks fit to make;

(iii) to require the production of all books, papers, and documents which it considers relevant;

(iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;

(d) persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before the High Court in its civil jurisdiction, and in the case of dispute as to the amount to be allowed the same shall be referred by the court to the Registrar of the Supreme Court, who on request signed by the court shall ascertain and certify the proper amount of the expenses;

(e) the court shall make a report to the minister stating the cause and circumstances of the accident or case of occupational **disease and** adding any observations which the court thinks right to make;

(f) the court may require the expenses incurred in and about an investigation under this section (including the remuneration of any persons to act as assessors) to be paid in whole or part by any person summoned before it who appears to the court to be, by reason of any act or default of his part or on the part of any servant or agent of him, responsible in any degree for the occurrence of the

accident or case of occupational disease, but any such expenses not required to be so paid shall be deemed to be part of the expenses of the Authority in the administration of this Part;

(g) if any person 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 or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty, he shall be liable on summary conviction to a fine of **five thousand dollars** and in the case of a failure to comply with a requisition for making any return or producing any document he shall be liable on summary conviction to a fine of **five hundred dollars for every day** on which such failure continues;

(h) the expenses of the Authority in the execution of the provisions of this section shall be defrayed out of monies provided by Parliament;

(i) if any witness objects to answer any question or to produce any document on the ground that it may tend to incriminate him, or on any other lawful ground, he shall not be required to answer such question or to produce such document nor shall he be liable to any penalty in respect of such refusal.

(2) The Minister may cause the report of the court to be made public at such time and in such manner as he thinks fit.

Application
of Part to
Government,
etc.

73. Without prejudice to the generality of the application of this Part, it is hereby declared that this Part shall apply in the case of accidents, occupational disease, or disease prescribed in regulations made under section 70, occurring to persons employed by or under -

(a) any department of Government other than members of the Guyana Police Force or of the Guyana Defence Force;

(b) such persons or class of persons (not being members of the Guyana Police Force or the Guyana Defence Force) employed by or under any department of Government as may be specified by order of the Minister,

and in such cases notice to be given under this Act by the employer shall be given by such person as the head of the department of Government shall by written instructions direct.

Accidents
explosions
etc., at an
industrial
establishment.

74. Where any notification is not required under section 69 or 70 and an accident, premature or unexpected explosion, fire, flood or inrush of water, failure of any equipment, machine, device, article, cave-in, subsidence, rockburst, or other incident as prescribed occurs at an industrial establishment , notice in writing of the occurrence shall be given to the Authority and to the committee, safety and health representative or trade union, if any, by the employer at such industrial establishment within two days of the occurrence containing such information and particulars as are prescribed.

**PART VIII
REGULATIONS**

Power of
Minister to
make
regulations.

75.(1) Subject to negative resolution of the National Assembly, the Minister may from time to time make regulations -

(a) prohibiting the employment of, or modifying or limiting the period of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, process or description of labour certified by the Authority, by notice published in the Gazette, to be dangerous;

(b) prohibiting, limiting or controlling the use of any material or process;

(c) modifying or extending any special provision for any class of industrial establishments contained in this Act;

(d) for the purpose of ensuring the health or safety of persons who are employed in any industrial establishment or in connection with machinery or with any employment within the meaning of paragraph (a); and

(e) generally for giving effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, any such regulations may provide for -

- (A.) (a) the safe means of approach or access to, and exit from, any industrial establishment, or machinery;
- (b) the fencing and covering of all dangerous places or machines;
- (c) life saving and first aid appliances and first aid services to be provided by employers;
- (d) securing safety in connection with all operations carried on in an industrial establishment;
- (e) securing safety in connection with the use of cranes, winches, pulley-blocks, and of all engines, machinery, mechanical gear and contrivances generally whatsoever;
- (f) the periodic inspection, testing and classification, according to age, type or condition, of boilers, and for the issue and display of certificates in connection therewith, and for the regulating of the type of safety valves to be fixed to any boiler and the maximum pressure at which boilers of any age, type, class, or condition may be operated;
- (g) amending the duties and responsibilities assignable to any person under Part V of this Act;

- (h) the proper ventilation of any industrial establishment, having regard to the nature of the process carried on therein;
- (i) the sanitation, including the provision of lavatory accommodation and sanitary conveniences (having regard to the number of workers employed) at any industrial establishment;
- (j) the fees to be paid for the inspection or examination of any industrial establishment or class of industrial establishment and any machinery therein;
- (k) the forms and certificates to be used under this Act;
- (l) the records and registers to be maintained for the purposes of this Act;
- (m) the lifting or moving of loads by any woman or young person;
- (n) the appointment, powers, duties, and fees of medical inspectors;
- (o) the medical supervision of workers;
- (p) the prescribing of occupations for the purposes of section 13;
- (q) the contents of notices required to be displayed under this Act;
- (r) defining any word or expression used in this Act or the

regulations that is not defined in this Act;

(s) designating or defining any industry, workplace, employer or class of workplaces or employers for the purposes of this Act, or the regulations or any provision thereof;

(t) exempting any workplace, industry, activity, business, work, trade, occupation, profession, employer or any class thereof from the application of a regulation or any provision thereof;

(u) limiting or restricting the application of a regulation or any provision thereof to any workplace, industry, activity, business, work, trade, occupation, profession, employer or any class thereof;

(v) exempting an employer from the requirements of section 63(1) (a) or (b) with respect to a hazardous chemical;

(w) any matter or article that is required or permitted to be regulated or prescribed under this Act;

(x) any matter or article, where a provision of this Act requires that the matter or article be done, used or carried out or provided as prescribed;

(y) any matter or article, where it is a condition precedent that a regulation be made prescribing the matter or article before this Act or a provision of this Act has any effect;

(z) the fees other than those referred to in paragraphs (j) and (u) and the payment or refund of fees;

(B) (a) the classes of workplace for which and circumstances under which a committee shall consist of more than six persons and in each case prescribing the number of persons;

(b) the employers or workplaces or classes thereof for the purposes of section 23 (1) (b);

(c) exempting any workplace, industry, activity, business, work, trade, occupation, profession, employer or any class thereof from the application of section 23(2);

(d) the conditions for eligibility, qualifications, selection and term of committee members, and the operation of the committee;

(e) regulating or prohibiting the installation or use of any machine, device or article or any class thereof;

(f) requiring that any equipment, machine, device, or article used bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, or article and designating organizations for such purposes;

(g) the classes of employers who shall establish and maintain a medical surveillance program in which workers may volunteer to participate;

(h) medical surveillance programmes ;

(i) the reporting by physicians and others of workers affected by any chemical, physical agent, or biological agent or combination thereof;

(j.) regulating or prohibiting atmospheric conditions to which any worker may be exposed in a workplace;

(k) the methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any chemical, physical agent, or biological agent or combination thereof in a workplace;

- (l) any chemical, physical agent, or biological agent or combination thereof as a critical substance;
- (m.) prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of any critical substance;
- (n.) adopting by reference, in whole or in part, with such changes as the Minister, considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
- (o) adopting by reference any criteria or guide in relation to the exposure of a worker to any chemical, physical agent, or biological agent or combination thereof;
- (p) enabling the Authority by notice in writing to designate that any part of a construction site shall be an individual construction site for the purposes of this Act and the regulations and prescribing to whom notice shall be given;
- (q) permitting the Minister to approve laboratories for the purpose of carrying out and performing sampling, analyses, tests and examinations, and requiring that sampling, analyses, examinations and tests be carried out and

performed by a laboratory approved by the Minister;

(r.) the registration of employers of workers;

(s) the establishment, equipment, operation and maintenance of mine rescue stations, as the Minister may direct, and for the payment of the cost thereof and the recovery of such cost from the mining industry;

(t) the training programmes that employers shall provide;

(u) the floor plans for the purposes of section 61(7);

(v) the forms and notices and providing for their use under this Act;

(w) building standards for industrial establishments;

(x) the name or description of any chemical as a hazardous chemical, any biological agent as a hazardous biological agent, and any physical agent as a hazardous physical agent;

(y) prohibiting an employer from altering a label on a hazardous chemical in prescribed circumstances;

(z) the criteria to be used by the Commissioner to determine whether information is confidential business information in an application under section 67(1);

2. (a) requiring an employer to disclose to such persons as may be prescribed the source of toxicological data used by the employer to prepare a chemical safety data sheet;

(b) the format and contents of a chemical safety data sheet;

(c) the intervals at which a safety and health representative or a committee member designated under section 23(18) shall inspect all or part of a workplace;

(d) the medical examinations and tests that a worker is required to undergo to ensure that the worker's health will not effect his ability to perform his job in a manner that might endanger others in keeping with section 47(1)(a);

(e) carrying into effect the provisions of Part VII and declaring certain diseases to be occupational disease for the purposes of this Act;

- (f) any provision with respect to the payment of any fixed fine in order to discharge any liability to conviction for the purposes of section 30(12);
- (g) the threshold quantity of a given hazardous substance or category of substances which, if exceeded, identifies a major hazard installation;
- (h) any provision with respect to the levy to defray expenses of administering this Act for the purposes of section 39;
- (i) all other matters which the Minister may consider to be in anyway incidental to, connected with or conducive to the discharge of the provisions of this Act.

(3) No young person shall be employed in a factory otherwise than in accordance with regulations made under this section.

Penalty for breach of regulations.

76. There may be annexed to the breach of any regulation made under this Act such penalty not exceeding fifty thousand dollars as may be prescribed, and such penalty may be sued for and recovered under the Summary Jurisdiction Acts.

PART IX
OFFENCES, PENALTIES AND PROCEDURE

Liability of
employers,
owners,
directors
and others.

77.(1) Notwithstanding anything contained in this Act, where an employer or an occupier or an owner of premises to which this Act applies contravenes this Act or any regulation made thereunder, the employer, occupier, owner or competent person, as the case may be commits an offence if it is proved that he failed to take reasonable steps to prevent the contravention.

(2) In a prosecution of an offence under any provision of this Act, any act or neglect on the part of any manager, agent, representative, officer, director or supervisor of the accused, whether a body corporate or not, shall be the act or neglect of the act or neglect of the accused.

(3) Where an offence under any provision of this Act or the regulations committed by a body corporate is proved to be committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or a person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Special provisions as to evidence.

78.(1) Any person who is found in an industrial establishment at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, shall, until the contrary is proved be deemed for the purposes of this Act to have been then employed in the industrial establishment:

Provided that this subsection shall not apply to an industrial establishment in which the only persons employed are members of the same family dwelling there.

(2) Where, in any proceedings under this Act with respect to a person under or over a specified age, it appears to the court that such person is apparently under or over such age, it shall lie on the defendant to prove that the person is not under, or not over, the specified age. as the case may be.

(3) 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 an industrial establishment or on his behalf shall, as against him, be admissable as evidence of the facts therein stated, and the fact that any entry with respect to the observance of any provision of this Act has not been made, shall be admissable as evidence that that provision has not been observed.

(4) In any proceeding or prosecution under this Act -

(a) a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister, Commissioner, Chief Occupational Safety and Health Officer or an inspector,

(b) a document purporting to be a copy of a notice, certificate, drawing, record or other document, or any extract therefor given or made under this Act or the regulations and purporting to be certified by an inspector;

(c) a document purporting to certify the result of a test or an analysis of a sample of air and setting forth the concentration or amount of a chemical, physical agent, or biological agent in a workplace or part thereof and purporting to be certified by an inspector; or

(d) a document purporting to certify the result of a test or an analysis of any equipment, machine, device, article, or substance and purporting to be certified by an inspector,

shall be evidence of the order, decision, writing or document, and the facts appearing in the order, decision, writing or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

(5) In any proceeding or prosecution under this Act, a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister Commissioner, Chief Occupational Safety and Health Officer or an inspector may be served -

(a) personally in the case of an individual or in case of a partnership upon a partner, and in the case of a body corporate, upon the president, vice-president, secretary, treasurer or a director, or upon the manager or person in charge of the workplace; or

(b) by registered letter addressed to any of the persons mentioned in paragraph (a) at the last known place of business of the person, partnership or body corporate, as the case may be,

and the same shall be deemed to be good and sufficient service thereof.

Offences.

79.(1) Any person who -

(a) being the owner or occupier, or manager of an industrial establishment fails within the time limited by section 7 to make application to the Authority for registration of such industrial establishment; or

(b) fails to give notice to the Authority as required by section 7(6);

or

(c) fails to furnish the Authority within a reasonable time with the information required by him under section 7; or

(d) being the owner, occupier or the manager of an industrial establishment contravenes or fails to comply with section 8; or

(e) obstructs the Authority or inspector in the execution of his powers, duties or functions under this Act; or

(f) is the occupier of an industrial establishment in which an obstruction under paragraph (e) takes place,

shall be liable on summary conviction to a fine of twenty-five thousand dollars.

(2) Any person who -

(a) wilfully delays the Authority or inspector in the exercise of any power under section 13; or

(b) fails to comply with any requirement of the Authority or an inspector in pursuance of section 13; or

(c) fails to produce any register, certificate, notice or document which he is required by or in pursuance of this Act to produce; or

(d) wilfully withholds any information as to who is an occupier of an industrial establishment, or as to who is the employer in the case of a prescribed occupation; or

(e) conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by the Authority or an inspector,

shall be deemed to obstruct the Authority or an inspector in the execution of his duties under this Act.

(3) Any person who -

(a) obstructs a medical inspector in the exercise of his powers under section 16;

(b) being the occupier of an industrial establishment, contravenes or fails to comply with any requirement of a notice under section 17;

(c) being the occupier of an industrial establishment, contravenes or fails to comply with any requirement of a notice under section 40; or

(d) contravenes section 41(1); or

(e) contravenes or fails to comply with any requirement of a notice under section 41(2); or

(f) contravenes or fails to comply with any of the provisions of section 42; or

(g) being the occupier of an industrial establishment, contravenes or fails to comply with any of the provisions of section 84; or

(h) being the occupier of an industrial establishment fails to comply with any requirement of the Authority under section 85; or

(i) being the occupier of an industrial establishment fails to comply with any of the provisions of section 86,

shall be liable on summary conviction to a fine of twenty-five thousand dollars, and in the case of continuing offence shall be liable to a fine of one thousand dollars for every day upon which such offence continues after conviction.

(4) Subject to subsection (5) and (6), any person who by any act or omission contravenes or fails to comply with -

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or the authority; or
- (c) an order of the Minister or the Commissioner.

shall, unless a penalty is otherwise specifically provided, be liable to a fine of not less than ten thousand dollars nor more than fifty thousand dollars and to imprisonment for a term of not more than twelve months.

(5) If a body corporate is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the body corporate shall be five hundred thousand dollars.

(6) If an inspector or any of the other persons referred to in section 36(1) (a) is convicted of an offence involving a contravention of section 36 (1) (a), the fine that may be imposed on such inspector or other person shall be not less than fifteen thousand dollars nor more than fifty thousand dollars.

(7) On a prosecution for a failure to comply with -

- (a) section 45 (1);
- (b) section 46(1) (b), (c) or (d); or
- (c) section 48 (1),

it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken.

(8) The payment of any fixed fine required under section 30(12) for contravention of any provision of this Act or the regulations shall have no force on the force of this Part.

Special rules as to making complaints for offences.

80.(1) The Permanent Secretary may institute or cause to be instituted prosecution for the purpose of enforcing any of the provisions of this Act or the regulations and any inspector may appear as prosecutor for and on behalf of the Permanent Secretary.

(2) All complaints under this Act may be heard and determined and all offences and penalties may be prosecuted and enforced in the manner provided by the Summary Jurisdiction Acts.

(3) No prosecution under this Act shall be instituted except by or with the previous sanction of the Authority.

(4) Any proceeding under this Act or the regulations may be taken in a magistrate's court of the district in which the offence or breach is alleged to have been committed or of the district in which the accused is resident or carries on business although the subject-matter of the proceeding did not arise in that district.

(5) Subject to section 83, no prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred.

Power of
court to
order cause
of
contravention
to be
remedied.

81. Where the occupier of an industrial establishment is convicted of an offence under this Act the court may, in addition to or in substitution for a penalty, order him to take within the time specified in the order, such steps as may be therein specified for remedying the matters in respect of which the contravention occurred and may, on application, enlarge the time so specified, and where such an order is made, the occupier 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 enlarged by

subsequent order, the order is not complied with, the occupier shall be liable to a fine of five thousand dollars for each day on which the non compliance continues.

Proceedings
against
persons
other than
occupiers

82. Where under this Act any person is substituted for the occupier with respect to any provision 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 authorised to be served on or taken in relation to the occupier, is hereby required or authorised (as the case may be) to be served on or taken in relation to that person.

Power to
make a
complaint
at any
time for
an offence
under Part II.

83. A complaint may be made for an offence under Part II although more than one year has elapsed since the date on which the offence is alleged to have been committed.

PART X MISCELLANEOUS

Display of
notices.

84.(1) There shall be displayed in every industrial establishment a notice containing such abstract of this Act and the regulations made thereunder, as may be prescribed.

(2) All notices required, under this Act, to be displayed in an industrial establishment shall be displayed where they can be conveniently be read by the persons employed in the industrial establishment, at some conspicuous place at or near the main entrance to the industrial establishment and shall be maintained in a clean and legible condition:

Provided that the Authority may direct that all or any of the aforesaid documents shall be posted in such parts of the industrial establishment either in addition to or in substitution for such conspicuous place as aforesaid, as **it may** direct.

Power of
the Authority
to require
returns.

85. The Authority may require occupiers or managers of industrial establishments to submit such returns, occasional or periodical, as may in **its** opinion be required for the purpose of this Act.

General
register.

86. There shall be kept in every industrial establishment, or such place outside the industrial establishment as may be approved by the inspector, a register, in the prescribed form, called the general register and there shall be entered in or attached to that register -

- (a) the prescribed particulars as to the persons employed in the industrial establishment who have not attained the age of eighteen;
- (b) the prescribed particulars as to the washing, white-washing or colour washing, painting or varnishing, of the **industrial establishment; and**
- (c) the prescribed particulars as to every accident and case of industrial disease occurring in the industrial establishment of which notice is required to be sent to an inspector; and

(d) all reports and particulars as required by any other provision of this Act to be entered in or attached to the general register; and

(c) such other matters as may be prescribed.

(2) The occupier of an industrial establishment shall send to an inspector such extracts from the general register as the inspector may from time to time require for the purpose of the execution of his duties under this Act.

Enforcement
by Local
Sanitary
Authority of
regulations
made under
this Act.

87.(1) The provisions of regulations made under this Act relating to cleanliness, ventilation, overcrowding, lighting, drinking water, washing facilities and sanitary conveniences shall be enforced by a Local Sanitary Authority of the district in which the industrial establishment is situate.

(2) For the purpose of their duties under this section a Local Sanitary Authority and its officers shall without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings, or otherwise, as the Authority or an inspector has, and accordingly in relation to their said duties the provisions of this Act as to furnishing means required by the Authority or an inspector, and delaying or obstructing the Authority or an inspector, shall be construed as including references to such officers; but no such powers of entry, inspection or taking legal proceedings shall be exercised except by officers of the Local Sanitary Authority authorised by the Authority in writing in that behalf either generally or specially.

(3) Where the Authority or an inspector finds any Act or default in relation to any matter in an industrial establishment which is liable to be dealt with by the Local Sanitary Authority he shall give notice thereof in writing to the Sanitary Authority aforesaid and to the Central Board of Health. It shall be the duty of the Local Sanitary Authority to make such inquiry into the subject of the notice and take such action thereon as seems to the Authority proper for the purpose of enforcing the law and to inform the Authority or the inspector as the case may be, and the Central Board of Health of the proceedings taken in consequence of the notice.

(4) If within one month after notice of an act or default is given by the Authority or an inspector under this section to a Local Sanitary Authority proceedings are not taken for remedying or punishing the default or act, the Central Board of Health, the Authority or the inspector as the case may be may take proceedings for the remedying or punishment of the default or act, in accordance with this Act.

(5) The Authority or an inspector shall for the purpose of his duties under this section have the same powers in regard to any such matters as he has with respect to other matters under this Act and he may for that purpose take like proceedings of enforcing this Act or for remedying or punishing any default or act as might be taken by the Local Sanitary Authority.

Repeal
and
savings,
etc.

88.(1) Sections 2(1) (except the definitions of "building operation", "child", "factory", "the Labour Authority", "occupier", "owner", "ship", "vessel" and "harbour", "week", "woman", "work of engineering construction" and "young person"), 4, 5, 6, 7, 8, 10(1)(c), (g) and (i), 12, 13, 14, 15, 16, 18, 19, 20, 26(1)(a),(b),(c) and (d), (2)(a),(b),(c),(d),(e),(f),(h),(i),(m),(n), and (o), 29(1)(a),(b),(c) and (d), (2)(a) and (b), (3)(a),(b),(c),(d), (e), (f), (g), (i) and (j),

Cap.95:02

37(1)(b) and (c) and 38 of the Factories Act are hereby repealed.

Cap.99:06

(2) The Accidents and Occupational Disease (Notification) Act is hereby repealed.

Cap 91:04

(3) Sections 13 and 14 of the Shops (Consolidation) Act are hereby repealed.

(4) The provisions of the Factories Act that are not repealed under

Fourth
Schedule

subsection (1) and specified in the first column of the Fourth Schedule are hereby amended in the manner specified in the second column of that Schedule.

(5) Notwithstanding subsections (1) and (2), every subsidiary legislation made under the Acts referred to in subsections (1) and (2), shall with any necessary modifications and subject to the power of the Minister to amend or revoke them, continue in force as if they were made under section 75 of this Act.

FIRST SCHEDULE

s. 69(1)

NOTICE OF ACCIDENT

Accident Register No. _____

- 1. Name of employer _____
- 2. Address of place where accident happened _____
- 3. Nature of occupation* _____
- 4. Branch or department and exact place where the accident happened _____
- 5. Injured person's surname _____
Other names _____
Address _____
- 6. (a) Sex _____ (b) Age (last birthday) _____
(c) Occupation of injured person _____
- 7. Date and time of accident _____
- 8. (a) Cause or nature of the accident _____
- (b) If caused by machinery—
(i) give name of the machine and part causing accident _____
(ii) state whether it was worked by mechanical power at the time _____
- (c) State exactly what injured person was doing at the time _____
- 9. Nature and extent of injuries (e.g. fatal, loss of finger, fracture of leg, scalp, scratch followed by sepsis) _____
- 10. (a) State whether the accident was fatal or not _____
- (b) If the accident was not fatal, state the estimated period that the injured person will be unable to earn full wages at the work at which he was employed at the time of the accident _____
- 11. Has the accident been entered in the Register? _____
Date: _____

* "Occupation" includes agriculture, business, commerce, industry and trade.

Signature of Employer or Agent.

SECOND SCHEDULE

s. 69(3)

NOTICE OF CESSATION OF DISABILITY

(To be submitted when disability ceases)

Accident Register No. _____

Name of employer _____
 Address of place of employment _____
 Injured person's surname _____
 Other names _____
 Date of accident _____
 Date when disability ceased _____
 Actual number of days of disability _____
 Amount of compensation paid _____

Signature of Employer or Agent

THIRD SCHEDULE

s. 70(3)

NOTICE OF OCCUPATIONAL DISEASE

Works	}	1. Name of employer _____
		2. Address of place of employment _____
		3. Address of office _____ (if work on the place of employment is only temporary).
		4. Nature of industry, occupation, or business _____
Person affected	}	5. Nature of occupational disease _____
		6. (a) Surname _____
		(b) Other names _____
		7. Address (permanent) _____
		8. Temporary address (if any) _____
		9. Sex, and age last birthday _____
		10. Precise occupation _____ (avoid the term "labourer" where possible).

Date: _____

Signature of Employer or Agent

FOURTH SCHEDULE

s.88

Act.	How amended
Factories Act Cap. 95:02 The Long title	For the words "registration and regulation of" substitute "regulation of hours of work and holidays in";
Section 1	For "Factories Act" substitute "Factories (Hours and Holidays) Act";
Section 2(1)	In paragraph (a) of the definition of "factory" delete the words "in manual labour";
Section 27	For "one thousand dollars" substitute "fifty thousand dollars";
Section 29(1)	For "five hundred dollars" substitute "twenty five thousand dollars";
Section 29(3)	For "five hundred dollars" and "twenty dollars" substitute "twenty-five thousand dollars" and "one thousand dollars", respectively;
Schedule	Substitute for paragraph 14 the following paragraph- "14. Any "mine" as defined in section 2(1) of the Occupational Safety and Health Act 1997";

EXPLANATORY MEMORANDUM

The Bill repeals the provisions of the Factories Act, Cap. 95:02, relating to the health, safety and welfare of factory employees engaged in manual work and re-enacts them to apply to all employees (whether or not engaged in manual work) in every industrial establishment which includes every factory, shop, office, agricultural undertaking, logging operation or work-place, and also to every person engaged in domestic work and homework.

The Bill repeals and re-enacts the Accidents and Occupational Diseases (Notification) Act, Cap.99:06, which currently applies in a restrictive manner, to certain employees. It applies the re-enacted provisions to all of the above-mentioned workplaces. It repeals and re-enacts sections 13 and 14 of the Shops (Consolidation) Act, Cap. 91:04, applying re-enacted sanitary provisions pertaining to shops, to all workplaces as aforesaid.

Additionally the Bill -

- (a) enacts up-to-date occupational safety and health provisions for employees;
- (b) specifies the duties and responsibilities of employers (including owners of industrial establishments and supervisors therein) and workers;
- (c) requires employers to establish and maintain joint workplace safety and health committees or safety and health representatives;

- (d) addresses the employee's right to know about hazards, to refuse to do dangerous work and to be free from reprisals;
- (e) provides for the appointment of an Advisory Council to advise and make recommendations to the Minister on national policy on occupational safety and health; and
- (f) provides for the establishment of a viable inspectorate to enforce the provisions of the Bill.

Henry B. Jeffrey,
Minister of Labour, Housing Human
Services and Social Security.