



MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

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Ms Jacqui Sampson-Meiguel
Clerk of the House
Levels G-9, Tower D
The Port of Spain International Waterfront Centre
1A Wrightson Road
Port of Spain

Dear Ms Sampson-Meiguel

Re: The Twelfth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) on an Inquiry into Occupational Safety and Health Compliance within the Public Service

Reference is made to your letter dated June 27, 2019 (*Ref: Parl.:14/3/57 Vol. III*) on the captioned subject.

In this regard, please find attached the Ministerial response to the recommendations/comments contained in the *Twelfth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) on an Inquiry into Occupational Safety and Health Compliance within the Public Service*.

If you require any additional information, please do not hesitate to contact me at 625-8478 ext. 1539/1302, 462 3482 or via email at natalie.willis@gov.tt.

Yours faithfully


Permanent Secretary (Ag.)
Ministry of Labour and Small
Enterprise Development

MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

Response to Recommendations/Comments contained in the Twelfth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) on an Inquiry into the Occupational Safety and Health Compliance within the Public Service

Objective 1: To assess the level of Compliance of Public Bodies (in particular Government Ministries) with the Provisions of the OSH Act

Recommendations, pages 27-28

- i. Mechanisms and systems to develop greater uniformity and consistency in the application of OSHA laws and standards are urgently required. In this regard, we recommend that the MOLSED collaborate with OSHA with a view of implementing this recommendation within the next 6 months.*

Response

The Occupational Safety and Health (OSH) Agency embarked on a Public Sector OSH Compliance Programme in March 2019. The objective of this Programme is to measure the level of compliance with the Occupational Safety and Health Act, Chapter 88:08 (hereafter referred to as the 'OSH Act') among the twenty-one (21) Government Ministries. Parameters that are examined as part of this Programme are: Policy, Emergency Plan, Fire Certificate, Safety and Health Committee, Risk Assessment and Training.

This Programme entails the following actions:

- (a) conduct of Desktop Audits to determine the current level of compliance in each Ministry;
- (b) informing the respective Ministries, in writing, of the findings/gaps identified in the Desktop Audits;
- (c) developing a specific Sensitization and Awareness Programme for Ministries and their respective Divisions/Units, entities and Special Purpose Companies under their purview;
- (d) conduct of OSH Inspections in Ministries three (3) months after the Sensitization and Awareness Programme is implemented to assess compliance levels and issuing of enforcement notices as may be required; and
- (e) implementing a system of mandatory reporting on a monthly basis on key OSH matters including all notifiable occupational accidents, injuries and diseases.

The OSH Agency has completed the actions identified at (a) and (b) above for eighteen (18) out of the twenty-one (21) Ministries. The Audits of the three (3) outstanding Ministries are expected to be completed by the end of August 2019. Additionally, in March 2019, the OSH Agency also furnished all Government Ministries with the following OSH brochures:

- Guidance on Safety and Health Committees;
- A Short Guide for Employers to the Occupational Safety and Health Act;
- A Short Guide for Employees to the Occupational Safety and Health Act;
- The Prevention of Occupational Diseases;
- Guidance in Preparing a Safety & Health Policy;
- A Guide to Risk Assessment;
- The High Five, Five ways to reduce risk on construction sites; and
- Types of Machine Safeguard.

The MOLSED will continue to work with the OSH Agency to promote greater uniformity and consistency in the application of the OSH Act.

- ii. *The OSHA must ensure that effective oversight is conducted through the establishment of Safety and Health Committees. The OSHA in collaboration with the Ministry of Labour and Small Enterprise Development and Trade Unions, should conduct a Public Service wide project aimed at encouraging and assisting Ministries and departments to establish Safety and Health Committees. This initiative should be executed within three months of the presentation of this report.*

Response

The establishment of Safety and Health Committees is being addressed as part of the Public Sector OSH Compliance Programme as described at (i) above, in particular, through the Sensitization and Awareness Programme. The OSH Agency will continue to monitor the establishment of Safety and Health Committees as part of its inspections. A brochure on *Guidance on Safety and Health Committees* was disseminated to all Ministries in March 2019.

The OSH Agency, in collaboration with the MOLSED, will continue to encourage and assist Ministries and departments to establish Safety and Health Committees.

- iii. *The MOLSED should engage in a nationwide sensitization drive geared towards increasing awareness of the importance of seamlessly integrating persons with disabilities into workplaces. Additionally, the MOLSED should prioritise the finalization of the OSH Welfare Regulations.*

Response

In 2018, the MOLSED spearheaded the formation of a Working Group, comprising representatives from the OSH Agency, the On-the-Job Training Programme and the Ministry of Social Development and Family Services, to oversee employment facilitation for persons with disabilities (PWDs) in Trinidad and Tobago.

The objectives of the Working Group are to:

- a. improve employer preparedness for PWDs in the workplace;
- b. increase employer participation in training and sensitization facilitating PWDs and acquired disability;
- c. increase the active participation of PWDs in the labour market;
- d. improve the preparedness of PWDs for business ownership;
- e. improve the preparation of PWDs for employment; and
- f. increase the capacity of advocacy of institutions for PWDs.

MOLSED, through the work of this Committee, will conduct a workshop for employers registered with the National Employment Service as to their responsibilities towards PWDs as well as a workshop for advocacy institutions on the rights of PWDs as workers, under the OSH Act. The MOLSED and the OSH Agency will also conduct a social media campaign on December 3, 2019, in commemoration of the United Nations International Day for Persons with Disabilities.

With regard to the OSH Welfare Regulations, the OSH Agency held tripartite consultations on a Draft Occupational Safety and Health (Welfare) Regulations on May 17, 2019. Several Non-Governmental Organizations representing PWDs were invited to participate, however, only two (2) organizations (the National Centre for Persons with Disabilities and the Blind Welfare Association) were represented. A Policy Paper on these Regulations is currently being prepared.

- iv. *The creation of a Register comprising the names and designations of all Health and Safety officers assigned to Ministries and State Agencies. Such a repository will assist the OSHA as a regulator to more effectively disseminate information and professional development material that may be specifically related to the public sector.*

Response

To give effect to this recommendation, the MOLSED will seek to write to the other Ministries and State Agencies to obtain the names and designations of all Health and Safety Officers as a first step in the creation of such a Register. The Register will also be updated periodically.

- v. *Permanent Secretaries and Heads of Departments should be mandated to verify and report on the implementation of applicable standards on occupational safety and health regularly. This may be facilitated through the submission of monthly reports to the OSHA for review and implementation. These records should contain all notifiable occupational accidents and injuries.*

Response

Whilst the MOLSED and the OSH Agency do not currently have any statutory authority to mandate that reports are submitted to the OSH Agency on a monthly basis, the Permanent Secretary of MOLSED will seek to write to the Head of the Public Service to initiate a process where all Permanent Secretaries report in a specified format on key OSH matters including all notifiable occupational accidents, injuries and diseases on a monthly basis. These reports should be submitted with respect to OSH matters within Ministries as well as in all State Agencies under the purview of these Ministries.

Objective 2: To Examine the Efficiency and Effectiveness of the Operations of the OSH Authority and its Agency

Recommendations, pages 40-41

- i. *OSHA has developed strategic objectives, which if accomplished, would definitely position the organization as a leading regulatory body in Trinidad and Tobago. We recommend that the Ministerial Responses to this report include details of the strategies the OSHA intends to adopt with a view to successfully implementing these objectives.*

Response

The OSH Agency undertook a Strategic Planning process during the period July 23, 2018 to January 15, 2019, which resulted in the development of a five (5) year Strategic Plan for the period 2019-2023. The Strategic Plan 2019-2023 identifies four (4) key strategic objectives aligned to the thematic areas of the National Development Strategy (Vision 2030). Details of the strategic objectives and the associated strategies are presented at Appendix I.

- ii. *We recommend that the management of the Agency conduct a critical assessment of the internal systems and operations of the OSHA with the view to determining areas of inefficiency and poor resource optimization. The results of this assessment should be used to better streamline the existing resources of the organization.*

Response

A critical part of the Strategic Planning process which led to the development of the Strategic Plan 2019-2023 for the OSH Agency was an organizational diagnostic on the Agency's systems and operations. The purpose of the diagnosis was to examine the problems faced by the organisation, identify factors and forces causing the problems and prepare the collected information to decide how to implement possible solutions to the issues identified. The findings were analyzed and formed the basis for the development of the new Strategic Plan for the OSH Agency which is currently being implemented.

- iii. *The OSHA should seek to update the baseline data that it utilizes to guide its policies and initiatives.*

Response

The OSH Agency will adjust its baseline year from 2012 to 2015 and has included indicators to accurately report on National Output 2.7 of the National Performance

Framework (NPF) – “*A modern safe and conducive work environment for all Public Service Organisations*”.

Data currently being maintained by the Research, Planning and Development Unit of the OSH Agency include:

- number of OSH related fatalities reported in the Public Sector;
- number of critical accidents reported in the Public Sector;
- number of Improvement Notices served in the Public Sector;
- number of Prohibition Notices served in the Public Sector; and
- number of Justified Refusal to Work complaints reported in the Public Sector.

iv. *Regarding the lands allocated for the construction of OSHA’s head office, the MOLSED must play a more proactive role in expediting the response from the Commissioner of State Lands.*

Response

The MOLSED will be requesting a meeting with the Commissioner of State Lands before the end of August 2019.

v. *The MOLSED should conduct a public sector-wide sensitization campaign to promote the importance of maintaining and the means of maintaining effective records of work-related hazards, accidents and injuries.*

Response

The maintaining of effective records of work-related hazards, accidents and injuries forms part of the Public Sector OSH Compliance Programme which commenced in March 2019 as described above.

vi. *OSHA should seek technical assistance from regional and or international organisations and counterparts in furtherance of its human resource development efforts.*

Response

The OSH Agency has requested assistance for training and is awaiting feedback from the following entities:

- The International Labour Organization;
- The United States Embassy;
- The British High Commission;

- The Canadian High Commission; and
- The Australian High Commission.

To date, the OSH Agency has received assistance in developing its human resource capacity from the following local entities:

- The Trinidad and Tobago Police Service - training was conducted for the Inspectorate and Legal staff of the OSH Agency in Accident Investigation and Evidence Collection (May 2019);
- Ministry of Public Administration - training on the Requirements for Organisational Design in the Public Service (May 2019); Communication for Effective Customer Service (July 2019); and Responding to Parliamentary Committee Queries (July 2019);
- Ministry of Planning and Development - training on New Automated Construction System (April 2019); and
- The Legal Unit has also taken advantage of free Webinars facilitated by the Law Association of Trinidad and Tobago on the topic of Evidence in Criminal Cases and by the Industrial Court (October 2018).

The OSH Agency, in collaboration with MOLSED, will continue to explore opportunities for technical assistance from regional and international organizations as well as local entities to facilitate the training and development of its staff.

- vii. *The OSHA Board and Management should seek to provide performance incentives within the organization to boost employee morale and to assist with effort of retaining its current staff complement.*

Response

A Diagnostic Report was prepared as part of the Strategic Planning process in October 2018 which addressed critical matters such as obtaining new terms and conditions of employment, payment of gratuities and the implementation of initiatives to boost employee morale. In light of this, the OSH Agency launched an Employee Recognition Programme on March 27, 2019. This Programme showcases on a quarterly basis an employee or team of employees who perform their duties and responsibilities above average. The OSH Agency has also scheduled a Team Building Exercise for all staff in September 2019.

Objective 3: To Assess the Adequacy of Existing OSH Legislation, Policies and Guidelines

Recommendations, page 46

- i. *The Committee recommends that the Act be modified to strengthen the powers and privileges of Inspectors. There is also a need to establish sanctions within the OSHA for Inspectors who intentionally contravenes the Act in the exercise of their duties.*

Response

Stakeholder consultations on amendments to the OSH Act were held by the MOLSED in collaboration with the OSH Agency on March 21 and 22, 2017 (Trinidad) and July 10, 2017 (Tobago). Further sectoral stakeholder consultations were held in July 2017 in order to obtain feedback.

Based on the feedback received from stakeholders, Sections 72 (Powers of Inspectors), 73 (Power to take samples), and 74 (Powers of Inspector re: dangerous conditions and practices) of the OSH Act appear to be sufficient with respect to the powers and privileges of Inspectors with the exception of the following:

- a. Under Section 72(3), the recommendation was made for the words “wilfully delay” to be replaced by “unreasonably delay” in order to make the evidence threshold less onerous on the Inspector to show obstruction; and
- b. Under Section 74, the recommendation was made for the inclusion of powers for Inspectors to serve, vary and remove Enforcement Notices.

To treat with Inspectors who intentionally contravene the OSH Act in the exercise of their duties, the OSH Agency has utilized the following approved Policies and Procedures:

- a. Disciplinary Policy and Procedure; and
- b. Conflict of Interest Policy and Procedure.

- ii. *The Act should clearly stipulate and mandate that employers should compensate, when liable, employees who have obtained any workplace injury whether life-threatening or non-life-threatening.*

Response

Under the OSH Act, the OSH Agency has the power to prosecute employers and request compensation for employees or their families for critical or fatal injuries, respectively. However, the power to impose and quantify fines and compensation resides with the

Industrial Court of Trinidad and Tobago. The OSH Agency has made recommendations for those fines identified under Section 86(1) of the OSH Act to be increased.

Additionally, the Workmen's Compensation Act, Chapter 88:05 provides for the payment of compensation to employees for injuries suffered during the course of their employment. The MOLSED is currently reviewing this Act as part of its Labour Legislation Reform project.

- iii. *We recommend that OSHA conduct workshops and seminars for the benefit of vulnerable groups such as "persons with disabilities" with a view to inter alia:*
- a. *Enhance their level of awareness regarding the regulatory framework for occupational safety and health in Trinidad and Tobago; and*
 - b. *Obtain feedback from the members of these groups regarding areas of the regulatory framework which should be modified to better address their needs and concerns.*

Response

The OSH Agency will engage with Non-Governmental Organisations (NGOs) and other groups which represent persons with disabilities to identify their concerns with regard to safety and health in the workplace. Their concerns will also be included as part of the OSH Inspectorate's Awareness and Sensitization Programmes conducted across all sectors. The feedback from these groups will be included in the amendment to the OSH Act, the development of a National OSH Policy and the Occupational Safety and Health (Welfare) Regulations.

- iv. *Given that the Act has been in operation for over a decade, the OSH should be in a position to objectively assess any ambiguities associated with interpretation of the provisions of the Act. To this end, we recommend that the OSHA include such an evaluation in its legislative review exercise. Specific attention should be given to eliminating any ambiguity arising from definition of terms such as: "Refusal to Work", "Imminent Danger", and "Critical Injury".*

Response

In its review of the OSH Act, the OSH Agency together with the MOLSED conducted stakeholder consultations to assess the ambiguities of the Act and determine whether there were any shortcomings and anomalies stemming from the application of the provisions of the Act. The review process has highlighted the need for clarification/expansion of certain definitions and the inclusion of others. The definitions which require clarification include "accident", "in the course of employment", "medical attention", "first aid", "person aggrieved", "reasonably practicable", "Court" while the definition of "critical injury" requires widening. The requirement for a definition of "imminent danger" will be reviewed

and a recommendation will be included in the Policy Position Paper for the amendment of the OSH Act.

Additionally, while there have been instances where persons did not properly invoke the procedure for refusal to work, the process under which an employee can invoke the “Refusal to Work” provisions of the Act is clearly outlined under Part III of the OSH Act “Rights of Employees to Refuse Work Where Safety or Health in Danger”. The OSH Agency has taken steps such as circulating information on “Refusal to Work” via both print and social media channels, as well as on its website www.osha.gov.tt. The OSH Agency can also include this topic in its Sensitization and Awareness presentations.

1. Strategic Objectives and 5 Year Action Plan

In developing the Strategic Plan, the Authority has considered the overall developmental needs of the country and have aligned the Strategic Objectives to the Government of the Republic of Trinidad and Tobago's (GORTT) Vision 2030. Vision 2030 clearly states that "Government and employers must ensure that work rules are adhered to and sanctions enforced while providing a safe, amenable environment for employees through conformance to labour and health and safety laws." and "Ensuring compliance with labour and health and safety laws, for example, the Occupational Health and Safety Act, 2004."

Figure 1: Five Year Action Plan (2019-2023)

